



**COCHIN PORT TRUST
COCHIN – 682 009
INDIA**

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**BID DOCUMENT FOR
CAPITAL DREDGING FOR INDIAN COASTGUARD
JETTY BASININ COCHIN PORT
(Bid No.T10/T-1934/2020-C)**

COCHIN PORT TRUST

CAPITAL DREDGING FOR INDIAN COAST GUARD JETTY BASIN IN COCHIN PORT (Bid No.T10/T-1934/2020-C)

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COCHIN PORT TRUST

BID FOR

CAPITAL DREDGING FOR INDIAN COAST GUARD JETTY BASIN IN COCHIN PORT (Bid No.T10/T-1934/2020-C)

PART - I

(TECHNICAL & COMMERCIAL BID)

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COCHIN PORT TRUST

No.T10/T-1934/2020-C

Date : 08-12-2020

I. TENDER CALL NOTICE (TCN)

Electronic tenders(e-tenders) in sealed cover in the prescribed proforma are invited on behalf of Indian Coast Guard in Single Stage Two Cover system from experienced, resourceful and bonafide dredging firms with proven technical and financial capabilities of executing dredging work, for the work mentioned below.

1. Name of the work. : Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port.
 2. Cost of bid document (non-refundable) : Rs..10,500/- including GST
 3. Estimated cost : Rs.45.56 Crores
 4. Period of contract : Six months from the Date of Commencement
 5. Earnest Money Deposit (EMD) : Rs.46.56 lakhs in the form of Bank Guarantee
 6. Period of issue of bid documents : 08-12-2020 to 1430 Hrs. on 29-12-2020
 7. Last date and time of submission of bid. : 1430 hrs IST on 29-12-2020
 8. Date and time of opening of bid : 1500 hrs IST on 29-12-2020 (Technical Bid) (Technical & Commercial bid)
 9. Pre-bid meeting : Nil
1. Tender document can be downloaded from the e-Tender 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 Govt. tender website, www.tenders.gov.in, which can be downloaded for submission. The cost of bid document shall be furnished in the form of Demand Draft/ Pay order/ Banker's Cheque drawn in favour of FA & CAO, CoPT along with the submission of bid.
 2. The bidders need to obtain the one time User ID & password for log-in to in e-Tendering system from the service provider KEONICS by paying registration amount of Rs.1124/- by online Payment using Credit/Debit Card/Net banking or DD in favour of "KSEDCL, Bangalore.
 3. 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 / 9605557738.

4. Tenders shall be submitted “**online**” strictly in accordance with the Instructions to Tenderers and Terms & Conditions given in the Tender Document.
5. The bidder is responsible to download Addenda/ Amendments/ Errata/ Replies to the queries of the bidders etc., if any, issued by the Employer, from the website before submission of the bid. **Any shortfall in uploading the said Addenda/ Amendments/Errata/Replies to the queries of the bidders etc. duly signed along with the downloaded documents while uploading the bid will render the Bid incomplete and incomplete bid documents may be rejected.**
6. All Bids are to be submitted **online only** on the website **www.tenderwizard.com/COPT**. No Bids shall be accepted off-line (Hard copy).
7. Cochin Port Trust will not be held responsible for any technical snag or network failure during online bidding. It is the bidder’s responsibility to comply with the system requirements 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.
8. EMD shall be in the form of Bank Guarantee issued in favour of the Employer by a Nationalized Bank or Scheduled Bank operating in India, enforceable and encashable at Cochin and it shall remain to be valid for a period of 180 (one hundred and eighty) days plus 60 days claim period, calculated from the Tender Due Date.
9. The bidder shall submit Originals of: (i) DD /Pay Order/ Banker’s Cheque / BG towards the cost of tender and EMD; and (ii) Power of Attorney in favour of signatory(s) to the tender and Pre-contract Integrity Pact ; 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 original financial documents towards cost of Tender document, & EMD and Pre-contract Integrity Pact, before opening date and time, of the tender will be liable for rejection.**
10. The work involves “Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port” by deploying dredgers like Trailing Suction Hopper Dredger (TSHD) and / or Cutter Suction Dredger and / or any suitable Dredger, with arrangement for direct loading to hopper/ barge and disposing of dredged material at designated dumping ground in outer sea at a distance of about 20 km away from the dredging site, where the depth of water is 20m or more.
11. Indicative quantity of dredging work involved is approximately 6,80,800 m³ (3,49,300 m³ at Jetty frontage and 3,31,500 m³ at lee side and under the Jetty). The quantity shown is only indicative and the bidders have to assess the exact work requirement through their own means and sources and accordingly, costing shall be done for the work. It is made clear that the above statement regarding indicative quantity to be dredged does not attract any liability on the Port and the Port cannot be mulcted with any liability on the strength of the said statement.

12. The site for dredging is on the FortKochi area along Mattancherry channel of the Cochin Port.
13. The bidder should mobilize dredgers of suitable capacity capable of executing the capital dredging work within the time schedule.
14. 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 also, a scanned copy of the Exemption / Registration Certificate duly notarized shall be uploaded in the e-tendering Portal. If the Registration Certificate does not pertain to the Category of ‘Similar Works’ defined below, the tender will be rejected.

15. **Minimum Qualification Criteria**

(a) Financial Turn over:

Average Annual Financial Turn over during the last three years ending 31st March 2020 shall be at least **Rs.1367 Lakhs**

(b) Experience:

Experience of having successfully completed Similar Works during last 7 years ending 30th November, 2020 should be either of the following:

- (i) Three Similar Works, EACH work either costing not less than **Rs.1367 Lakhs Croresor** involving in situ dredging quantity of not less than **2.04 Lakh cum.**

OR

- (ii) Two Similar Works, EACH work either costing not less than **Rs.1823Lakhsor** involving in situ dredging quantity of not less than **2.72 Lakh cum.**

OR

- (iii) One Similar Work either costing not less than **Rs.2734Lakhsor** involving in situ dredging quantity of not less than **4.08 Lakh cum.**

Similar Works means dredging and disposal of dredged spoil in marine environment using suitable dredger/ dredging equipment.

(c) Dredger availability:

The tenderer shall own dredger(s) / dredging equipment(s) of adequate capacity to carry out the dredging **or**

In case, the dredgers proposed to be deployed for the work is made available on hire/charter, the tenderer shall produce an undertaking from the owner of dredger /dredging equipment for its ensured deployment till completion of the work.

Explanatory Notes to (a), (b) & (c):

- (1) Following enhancement factors will be used for the costs of works executed for bringing the financial figures to a common base value in respect of the works completed in past years.

Table 1

Year before	Multiplying factor
One year [November, 2019]	1.07
Two years [November, 2018]	1.14
Three years [November, 2017]	1.21
Four years [November, 2016]	1.28
Five years [November, 2015]	1.35
Six years [November, 2014]	1.42

- (2) *The experience certificate of works executed in private sectors/ organisations shall be considered for qualification, only on submission of TDS certificate along with work order and completion certificate.*
- (3) *Satisfactory Client/ Owners’s Certificate or documentary proof shall be submitted in support of the assignments / works performed and claimed by the tenderer to fulfill the eligibility criteria for qualification. A statement duly certified by the Chartered Accountant showing the average annual Financial Turnover over the last 3 financial years and audited financial statements for the last three years shall be submitted .*
- (4) *The works reckoned for the above purpose are those executed by the tenderers as prime contractor or proportionately as member of joint venture or as a sub contractor authorized and approved by the Employer of the work(s) against which the tenderer has claimed his experience; documentary proof of such authorization / approval of the Employer shall also be submitted.*
- (5) *In case of bid submitted by JV/ Consortium, the Minimum Eligibility Criteria EXCEPT Financial Turnover can be fulfilled collectively by the Partners of the JV/ Consortium.*
- (6) *In the case of bid submitted by JV/ Consortium, the lead partner of the JV shall meet the Minimum Eligibility Criteria of Financial Turnover.*
- (7) *Authentic documents to prove the ownership of the dredger/ dredging equipment or an undertaking from the owner of dredger /dredging equipment for its ensured deployment till completion of the work shall be submitted.*
- (8) *Chartering / wet leasing of dredger does not qualify for work experience for the owner of the dredger.*

(9) For conversion of foreign currency to Indian Rupee, the rate prevailing as on due date of submission of bid will be considered.

16. Other Eligibility Considerations

- 16.1 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have:
- i) made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements; and/or
 - ii) record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.
- 16.2 The bidders having EPF/ ESI registration certificates shall be considered for qualification in the tenders.
17. Bidders are advised to submit their Price Bids strictly based upon the layout, technical specifications, terms and conditions contained in the bid document after going through the prevailing conditions at site.
18. In compliance with Government guidelines, Indian Dredging Company owning Indian Flag dredgers shall have the first right of refusal if their rate is within 10 % of the lowest technically qualified offer. The Indian company selected on the above basis shall match the price with the lowest offer.
19. Bids received after the stipulated last date and time for receipt of bids, due to any reasons will not be considered.
20. Integrity Pact (IP) shall cover this tender throughout its various phases, and IP would be deemed as a part of the contract though an appropriate provision. The bidders should sign and submit an “**Integrity Pact**” to be executed between the bidder and Cochin Port Trust in a separate envelope superscribed “**Integrity Pact**” before due date and time of the tender. Bids not accompanied by a duly signed “**Integrity Pact**” shall be liable for rejection. IP would be implemented through the following Independent External Monitor (IEM) for this tender.

Shri. P R Ravikumar, IRS (Retd.)
Akshath, No.84, First Avenue,
Kumaranasan Nagar, Elamkulam (PO),
Ernakulam - 682020

For full details of the scheme of IP, you may visit the website of Central Vigilance Commission, New Delhi.

21. The undersigned reserves the right to reject/cancel/postpone any one or all tenders at any stage of the tender, which shall be binding on all bidders.

**CHIEF ENGINEER
COCHIN PORT TRUST**

II. LETTER OF BID

To

The Board of Trustees of the Cochin Port Trust,

Through

The Chief Engineer.

I/We hereby bid for the execution for the Board, of the work specified in the underwritten memorandum within the time specified in the schedule attached hereto and in accordance in all respects with the specifications, designs, drawings and instructions in 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 : Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port
- b) Estimated cost : Rs.45.56 Crores
- c) Tendered Cost :
- d) Earnest Money Deposit : Rs.45.56 lakhs in the form of Bank Guarantee, enforceable and encashable at Kochi
- e) Security Deposit : 10% of the Contract Price
- f) Performance Security : 10% of the Accepted Contract Amount
- g) Contract Period : 6 months as specified in Clause 2.2.1 of Special Conditions of Contract
- h) Schedule : 1 sheet attached

Should this bid be accepted, I/We hereby agree to abide by and fulfill all the terms and provisions of the said conditions of contract annexed hereto or in default thereof forfeit and pay to the Board the sum of money mentioned in the said conditions. I/We further agree 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.45.56 lakhs in the form of Bank Guarantee, as required is enclosed as earnest money, the full value of which is to be absolutely forfeited to the Board in office should I/We withdraw the offer or revise or go back upon the terms of the bid; or fail to commence the work specified in the memorandum or should I/We not furnish the Performance Security specified in the above memorandum, otherwise the said sum of Rs.45.56 lakhs in Bank Guarantee shall be retained by the Board on account of and towards such security deposit as aforesaid.

III. INSTRUCTIONS TO BIDDERS

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III. INSTRUCTIONS TO BIDDERS

1.0 INTRODUCTION

1.1 General

Cochin Port is one of the 12 Major Ports in India. It is an all weather port located in the State of Kerala on the west coast of India (9° 58' N, 76° 16' E) within the Cochin lagoon, which has natural protection from the sea by the headlands of Fort Cochin and Vypeen. The entrance to the Port is through the sea outlet between the peninsular headland of Vypeen and Fort Cochin, popularly known as the 'Cochin Gut'. LNG Basin is situated at the northern side of the outer channel near the Cochin Gut.

On behalf of Indian Coast Guard, the Employer has undertaken the Construction of Jetty excluding capital dredging and the pile foundation is already completed and the superstructure is expected to be completed in the first half of 2021. Now, this tender is for the capital dredging of the Indian Coast Guard Jetty basin.

The site for dredging is on the FortKochi area along Mattancherry channel of the Cochin Port.

1.2 Scope of Work

The scope of work includes “**Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port**” by deploying Trailing SuctionHopper Dredger (TSHD) or Cutter Suction Dredger or any suitable Dredger / Dredging equipment with arrangement for direct loading to hopper/ barge and disposing of dredged material at designated dumping ground in outer sea at a distance of about 20 km away from the dredging site, where depth of water is 20m or more.

2.0 BID REQUIREMENTS

2.1 General

Bids in prescribed form in sealed covers (Single Stage Two Cover system) for the work of “**Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port**” by deploying Trailing SuctionHopper Dredger (TSHD) or Cutter Suction Dredger or any suitable Dredger / Dredging equipment will be received by the Chief Engineer upto 1430 Hrs Indian Standard Time on 29-12-2020.

2.2 Bid Documents shall remain the property of the Employer.

2.3 Employer will not be responsible for any costs or expenses incurred by the bidder in connection with the preparation and delivery of his bid or for any other expenses incurred in connection with such bidding.

2.4 The work has 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 dredgers, crafts, all materials

- including consumables and equipment necessary to conduct surveys, dredging and disposal of spoil at specified places as described in the Bid Document.
- 2.5 Quantities, drawings and specifications given in the Bid Document are for the sole purpose of indicating to bidders the order of magnitude of work and are not in any way guaranteed to remain unchanged. Time is the essence of contract and the works shall be completed in all respects within the specified periods from the date of Commencement of the Contract.
- 2.6 Before submitting the bid, the bidder shall examine carefully all conditions of contract, specifications, drawings etc. supplied herewith. The bidder is advised to inspect the site of work before bidding and acquaint himself with the conditions prevailing at site and it is his responsibility to take into consideration all relevant points before quoting, including any additional investigations for determining the nature of soil strata including unidentified objects in the dredging areas. He shall not hold the Employer responsible for any detail that might have been omitted in the bid schedule which may affect the pricing of the contract. This bid shall be deemed to be submitted by the bidder relying on his own judgment, skill and expertise in all matters connected with the bid and submission thereof. Bidder can conduct hydrographic survey at their own cost with prior permission of the Employer, if required. It is specifically made clear that none of the statements by the Employer shall be deemed to have induced the bidder to enter into the contract. 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 Addendum/Corrigendum, if any, within the quoted price.
- 2.7 The bidders who need clarifications on any specific issue shall inform the Employer in writing latest by before 14-12-2020 in the address given in the clause 2.9. No queries/clarifications on bid document shall be entertained after this date. The replies/clarifications/decisions shall be hosted at the Cochin Port Trust website www.cochinport.gov.in, www.tenders.gov.in and eTendering website. No Pre-bid meeting will be held for the tender.
- 2.8 At any time prior to the due date for submission of the bid, the Chief Engineer may modify the Bid Documents by the issuance of the Addendum/Corrigendum. The Addendum/Corrigendum, if any, shall be hosted in the websites of the eTendering, GoI Tender Portal & Cochin Port only. It is the responsibility of the Bidders to download such Addendum/Corrigendum/Clarifications hosted in the website and submit along with the Bid. The Addendum/Corrigendum shall also form the part of Bid Document. In order to afford Bidders with reasonable time to take Addendum/Corrigendum into account, or for any other reason, the Employer may, at its discretion, extend the due date for submission of the bid.
- 2.9 If the bidders find discrepancies in or omission from the drawings, specifications, or other documents, or have any doubt as to the meaning or intent of any part thereof, they shall at once inform the EMPLOYER who may send a written instruction or explanation to all

bidders. No oral interpretations shall be made by any bidder as to the meaning of any of the provisions of the Bid Documents. Every request for an interpretation shall be in writing addressed and forwarded to the Employer at the following address not later than 14-12-2020:

THE CHIEF ENGINEER,
CHIEF ENGINEER'S OFFICE,
COCHIN PORT TRUST,
WILLINGDON ISLAND,
KOCHI-9,
KERALA, INDIA.
Ph:- 91-0484-2666414/2582400/ 2582404.
Fax:-91-0484-2666414.
Email: coptce@gmail.com/ ce@cochinport.gov.in

- 2.10 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 bidder implies that he has read the notice and conditions of contract and has made himself aware of the scopes and specifications and other factors bearing on the bid and that they are binding on him.
- 2.11 The successful bidder shall make his own arrangements for obtaining all necessary licences, permits etc. that may be required for the import of dredgers, their ancillary equipment and spares and other plants and equipment for the commencement of work and also during progress of work. The Employer shall give only assistance for the same with no obligation therefore. Obtaining necessary licences and permits shall be the responsibility of the successful bidder. Successful bidder shall not be entitled to raise any claim on the Employer on the ground that the Employer did not accord the recommendatory assistance.
- 2.12 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 Work Order together with the offer as finally accepted along with correspondences shall form a binding contract between the two parties.
- 2.13 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.
- 2.14 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.

- 2.15 The right of acceptance of a bid will rest with Employer who does not bind themselves to accept the lowest bid and also reserves the right to reject any or all of the bids received without assigning any reason. The Employer also reserves to themselves, the right to accept any bid in part or parts only with such conditions as he may prescribe.
- 2.16 The successful bidder shall furnish the required Performance Security through an irrevocable Bank Guarantee, enforceable and encashable at Kochi, drawn from any Nationalised Bank / Scheduled Bank in India which has net worth not less than Rs.100 Crores and which is acceptable to the EMPLOYER, as per the Proforma enclosed at ***Annexure-1*** to the bid document, within 21 (Twenty one) days from the date of Letter of Acceptance.
- 2.17 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).
- 2.18 Postal / FAX / Email offers will not be considered- Bidders should prepare their bid themselves. Bids submitted by agents will not be recognized.
- 2.19 Bids received after the due date and time and any change in quotation 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.
- 2.20 Bidders should prepare their bid themselves and submit “online” in accordance with instructions to Bidders at Terms & Conditions given in the bid document.
- 2.21 Bidders to note that the bids shall first be evaluated for Minimum Qualification Criteria given in the Tender Call Notice (TCN). Bidders not meeting the Minimum Qualification Criteria do not qualify for opening their Price Bid.
- 2.22 While evaluating the document, regard would be paid to National defence and security considerations, at the discretion of the Employer. Bid received from any bidder may be summarily rejected on National security consideration without any intimation thereof to the bidder.
- 1.1 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 shall be binding on the Bidder.
- 1.2 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.
- 1.3 Any error in description, and 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 drawings and specifications or from any of his obligations under the contract
- 1.4 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.

- 1.5 ***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 into force from time to time.***
- 1.6 ***The contractor/ approved sub contractor if any shall be registered under EPF and ESI Act irrespective of the number of people employed 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.***
- 2.23 ***The contractor shall be registered under GST and shall furnish documentary evidence in support of valid GST registration.***

3.0 INSTRUCTIONS FOR FILLING BIDS.

- 3.1 (i) If the bid is made by an individual, it shall be signed by his full name in each page of the bid document with official stamp as a token of his acceptance of the conditions stated therein and his address shall be given.
- (ii) In the case of bid being submitted by a registered partnership firm, it shall be signed individually by each partner thereof in each page of the bid documents with official stamp as a token of acceptance of the conditions stated therein. In the event of absence of any partner, it must be signed on his behalf by a person holding a proper Power-of-Attorney authorising him to do so and to bind the partner in all matters pertaining to the contract. Such Power-of-Attorney as per the proforma given in ***Annexure - 2***, is to be attached with the bid which must disclose that the firm is duly registered under Indian Partnership Act. Certified copy of the registered partnership deed of the firm shall be enclosed with the bid.
- (iii) If the bid is made by a Limited company, it shall be signed in each page of the bid documents with official stamp as a token of acceptance of the conditions stated therein by a duly authorized person who shall produce with the bid satisfactory evidence of the authorisation as per the proforma given in ***Annexure-2***. The Memorandum and Articles of Association of the Company shall also be enclosed with the bid.
- (iv) In case the bid is made by a joint venture company, consortium of companies or other unincorporated grouping of two or more persons/ companies, a legally binding Joint Venture/ Consortium Agreement signed by all partners of the JV/Consortium certified by a notary public as per the proforma at ***Annexure-3*** may be attached. The bidder shall have to sign in each page of the bid documents with official stamp as a token of his acceptance of the conditions stated therein.

3.2 **Conditions for Bid Submission by JV/ Consortium**

- 3.2.1 Companies/Contractors may jointly undertake contract/contracts. Each entity shall be jointly and severally responsible for completing the task as per the contract, however one of the partners shall be nominated as the Lead Partner by all the constituent firms. **The Lead Partner shall on its own meet the Financial Turnover Criteria under MQC.** The JV partners should have 26% equity and above.
- 3.2.2 Bid submitted by an unincorporated Joint Venture of companies (JV)/Consortium of companies (Consortium), shall also comply with the following requirements:
- (i) There shall be a Joint Venture Agreement between the constituent firms specific for the contract package for which the bids are submitted. The JV Agreement shall include among other things, the joint venture's objectives, the proposed management structures, the proposed distribution of responsibilities both financial as well as technical for execution of the work, the contribution of each partner to joint venture operation, the commitment of all partners to jointly and severally liable for due performance, recourse/ sanctions within the joint venture in the event of default or withdrawal of any partner and arrangements for providing the required indemnities.
 - (ii) One of the partners of JV/Consortium should have downloaded the bid documents.
 - (iii) Participation by a firm in more than one JV /Consortium is not permissible. A firm who submits bid on individual capacity is not eligible to be a partner of a JV/ Consortium. In case a firm's name appears in more than one bid then both applications may be rejected.
 - (iv) Each partner must submit the complete documentation, or portions applicable thereto, required to qualify the firm for bidding.
 - (v) All the partners of the JV/Consortium shall be jointly and severally liable during the bidding process and for the execution of the work in accordance with the Contract terms. A statement to this effect shall be included in the Joint Venture Agreement.
 - (vi) The bid, and in the case of successful bidder, the Contract Agreement shall be signed and / or executed in such a manner as may be required for making it legally binding on all partners (including operative parts of the ensuing Contract in respect of Agreement of Arbitration, etc.). The Contract shall be signed by legally authorised signatories of all partners.
 - (vii) All the partners of the JV/Consortium shall be jointly and severally liable for due performance, recourse/sanctions within the Joint Venture in the event of default of any partner and arrangements for providing the required indemnities.

- (viii) Notwithstanding demarcation or allotment of work among the partners, each partner shall be liable for non performance of the whole contract irrespective of their demarcation or share of work.
- (ix) **The most experienced partner shall be nominated as the Lead Partner.** The most experienced partner shall be identified based on the Total Value of Eligible Works done by the partners furnished as per Table-2. Therefore, documentary proof as in the case of MQC, shall be necessarily produced by the Bidders towards fulfillment of the above condition. Lead Partner of the JV/ Consortium shall be in charge during the bidding period and in the event of a successful bid, during contract execution and his nomination shall be evidenced by submitting power of attorney signed by the legally authorised signatories of all the partners.
- (x) The Lead Partner shall be authorized to act on behalf of the JV/Consortium.
- (xi) All the correspondences between the Employer and the contractor shall be routed through the Lead Partner.
- (xii) The Lead Partner shall be authorized to incur liabilities and to receive instructions for and on behalf of any and all partners of the JV /Consortium and to carry out the entire execution of the contract including payment, exclusively through the Lead Partner. A statement to this effect shall be included in the Joint Venture Agreement.
- (xiii) The Lead Partner will provide suitable experienced personnel at site for the purpose of general planning, site management and equipment operations, during the whole period of contract execution.
- (xiv) In the event of default by the Lead Partner, it shall be construed as default of the Bidder/Contractor; and Employer will take action under relevant clause(s) of the Department Bid Document and/or General Terms and Conditions of Contract.
- (xv) A legally binding Joint Venture/Consortium Agreement signed by authorised signatories of all the partners of the JV/Consortium, as per the proforma at Annexure-3 shall be enclosed with the bid.
- (xvi) In case, the Joint Venture/Consortium Agreement enclosed with the bid is not acceptable to the Employer, the JV /Consortium will modify the Agreement so as to be acceptable to the Employer. However, any change in the composition/legal status of the JV/Consortium before execution of the Contract Agreement is not permitted and it shall lead to the rejection of the Bid.
- (xvii) Power of attorney duly executed and signed by legally authorized signatories of all the partners, authorizing the Lead Partner: (i) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV/ Consortium during the bidding process; and (ii) in the event of a successful bid, to incur liabilities and receive instructions for and on behalf of the partner(s) of the JV/Consortium and to carry out the entire execution of the

contract including payment, exclusively through Lead Partner, as per the proforma at **Annexure-4**, which shall be duly authenticated by a notary public or equivalent certifying authority, shall be enclosed with the bid.

- (xviii) An undertaking that all the partners are jointly and severally liable to the Employer for the performance of the contract shall be enclosed with the bid.
 - (xix) **Bid Security as required can be furnished by any partner but it shall be in the name of Joint Venture.**
 - (xx) Guarantee, as required, will be furnished by all partner(s), out of their accounts, in proportion of their participation in Joint Venture.
 - (xxi) Joint Venture Agreement shall contain a clause to the effect that there shall be a separate JV Bank Account (distinct from the Bank Account of the individual partners) to which the individual partners shall contribute their share capital and/or working capital.
 - (xxii) Joint Venture Agreement shall also contain a clause to the effect that the financial obligation of the JV shall be discharged through the said JV Bank Account only and also all payment received by JV from the Employer shall be through that account only.
 - (xxiii) In the event of any partner leaving the JV/Consortium after executing the Contract Agreement for the work, it shall be intimated to the Employer within 30 days by other partner(s) and acceptance of such a change shall be at discretion of the Employer. Failure to do so shall be construed as default of the contractor and the Employer may take action under relevant clause(s) of the Bid Document and/or General Terms and Conditions of Contract.
 - (xxiv) The contractor shall not alter its composition or legal status without the prior written permission of the Employer. Failure to do so shall be construed as default of the Contractor and the Employer may take action under relevant clause(s) of the Bid Document and/or General Terms and Conditions of Contract.
 - (xxv) Number of partners in JV/Consortium shall be limited to maximum of three.
- 3.2.3 Bids not fulfilling the requirements as above as per the conditions for bid submission by JV/Consortium, the bid shall be liable for rejection.
- 3.3 The bid and any annotation or accompanying documentation shall be in English language only and in metric system.
- 3.4 Bidders shall sign their bid with the exact name of the firm / Consortium / Partnership firm.
- 3.5 Bidders shall clearly indicate their legal constitution and the person signing the bid shall state his capacity and also the source of his ability to bind the bidder. The power of attorney or authorisation or any other document constituting adequate proof of the ability

- of the signatory to bind the bidder shall be annexed to the bid. The Employer may reject outright any bid unsupported by adequate proof of the signatory's authority.
- 3.6 The bid documents shall be completed in all respects including Addendum/Corrigendum and shall be submitted together with requisite information and appendices. They shall be complete and free from ambiguity, change or inter-lineation.
 - 3.7 If the space in the bid form or in the Appendices thereto is insufficient, additional pages shall be separately added. These pages shall be consecutively page numbered and shall also be signed by the Bidder.
 - 3.8 Bidders should indicate at the time of quoting against this bid their full postal and fax/e-mail addresses.
 - 3.9 Bidder shall set their quotations in firm figures and without qualification. Each figure stated shall also be repeated in words and in the event of a discrepancy between the rate stated in figures and words, the rate quoted in words shall be deemed to be the correct rate. Bids containing qualifying expressions such as "**subject to minimum acceptance**" **"or"** **subject to availability of dredgers**" etc. are liable to be rejected.
 - 3.10 Each bid should be accompanied by an Earnest Money Deposit (EMD) amounting to Rs.45.56 lakhs in the form of Bank Guarantee(BG), enforceable and encashable at Kochi, drawn from any Nationalised Bank / Scheduled Bank in India acceptable to the Employer, as per the Proforma enclosed at *Annexure-5* to the bid document. EMD shall be enclosed in the Cover. A reference shall be made to the concerned Bank by Employer for confirming the authenticity of the BG issued and in case, BG furnished is found invalid, the bid shall be liable for rejection. **In the case of bid submission by JV/Consortium, the EMD can be furnished by any partner but it shall be in the name of the JV only. In case of EMD in the form of Bank Guarantee (BG), the composition and legal status of the JV shall be properly filled in as applicable. Non compliance of the above will lead to rejection of the Bid.**
 - 3.11 EMD shall specifically bind the Bidder to keep his offer valid for acceptance up to 120 days and to abide by all the conditions of the Employer's Bid Document in the event of the Employer desiring to award the work against the said bid to the said Bidder. The Employer shall have an unqualified option under the said EMD to claim the amount there under in the event of the Bidder failing to keep the bid valid up to the date specified or refusing to accept work and carry it out in accordance with the bid if the Employer decides to award the Work to the Bidder. The EMD shall be retained with the Cochin Port Trust till finalisation of bids. EMD will not carry any interest.
 - 3.12 Details of the Bidder for refund of EMD through e-payment system shall be provided as per *Annexure-6* and Bank information for e- payment system as per *Annexure-7*.
 - 3.13 The bidder has to download the bid document from the web, the cost of bid document shall be enclosed as separate Demand Draft/Banker's Cheque from any Nationalised Bank / Scheduled Bank in India, drawn in favour of the Financial Adviser & Chief

Accounts Officer of Cochin Port Trust in a separate cover superscribed by the words: Cost of Bid document for the work of “**Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port**”, Bid No.T10/T-1934/2020-C”.

3.14 The EMD shall be forfeited under the following circumstances:

- (i) In the event of the Bidder failing to keep the bid valid upto the date specified or refusing to accept work and carry it out in accordance with the bid if the Employer decides to award the Work to the Bidder.
- (ii) Failing to enter into an agreement with Cochin Port Trust upon award of contract as required in the tender or failing to furnish the necessary bank guarantee towards performance within time specified in the bid document.

4.0 PRICING OF BID

4.1 General

The Bid shall be on Percentage basis. The unit rate shall include planning, mobilisation and demobilisation of suitable type of dredger(s)/ dredging equipment of adequate capacity and other required crafts including all labour charges, items/cost of materials, labour, tools, fabrication, transportation, insurance, taxes, duties, etc. as applicable at the time of bidding, consumables, overhead, profit etc. necessary for execution of dredging as described in the Bid Document.

Any increase or decrease in any such taxes/duties after the date of bid shall be debited or credited to the Employer upon satisfactory proof of payment thereof or decrease thereon.

The quoted unit rate shall apply equally to executing the work in difficult or easy situations and no claims shall be made, entertained or considered.

4.2 Currencies of Bid

The Bidder shall indicate the prices in Indian Rupees. The Bidder shall not quote in any currency other than Indian Rupees.

4.3 Validity of Bid

The bid shall be valid for acceptance for a minimum period of one hundred and twenty (120) days from the date of opening of Part-I (Technical & Commercial Bid). 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.

In exceptional circumstances, prior to expiry of the original time limit, the Employer may request the Bidder to extend the period of validity for an additional period. The request and bidders response shall be made in writing. A bidder agreeing to the request will not be permitted to modify his bid (ie, the extension shall be unconditional) and shall submit an extension of EMD in case it is submitted in the form of Bank Guarantee.

4.4 **Duties and Taxes**

Indian Custom Duties, if any, levied upon the work, dredger, equipment etc. are to be borne by the bidders and to be incorporated in the unit rate quoted and this will not be separately paid for. The successful bidder shall bear all Taxes both corporate and personnel, including but not limited to taxes on income levied on the Contractor or on their affiliated companies on account of payments received by them from the Employer for the works done under the Contract.

The amount 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 costs and charges whatsoever excluding Goods and Services Tax (GST). GST as 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.

The amount to be quoted shall not include the GST. The GST applicable as per the law can be billed on the Employer, which will be paid to the Contractor by the Employer along with the bills. The Contractor in turn shall remit the GST to the concerned department as provided by law, within a period of not later than 30 days and the original receipts should be submitted to the Employer.

4.5 **Income Tax**

When the value of the contract for work or for supply of labour exceeds Rs.10,000/-, Income Tax at the rate of 2% plus surcharge at the prevailing rate or the rates as certified by the Income Tax authorities (certificate to be produced by the successful bidder), of the gross amount of the bill will be deducted while making payment of the amount of the Contractor's bill or when crediting the amount to his account. Any stipulation by a bidder that income tax deductible from these bills should be borne by the Port Trust will result in summary rejection of the bid. Income Tax leviable for foreign Contractor and the foreign employees shall be borne by the firm.

The Contractor and his staff shall be responsible for payment of all personal Income Taxes to concerned authorities as per law in force from time to time.

The Contractor shall comply with all GST regulations viz. timely uploading of bills, issue Debit/Credit note etc.

It shall be the responsibility of the Contractor to submit to the concerned Indian Statutory Authorities the returns and all connected documents required for this purpose. The Contractor shall also provide the Employer such information as they may require with regard to the Contractor's income and expenditure for this purpose.

The Contractor shall comply with all the provisions of the Indian Workmen's Compensations Act, 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 into force from time to time by the Government of India/Govt. of Kerala.

5.0 INFORMATION REQUIRED IN THE BID

The bid for the work will be based on Two Cover system [Part-I: Technical & Commercial Bid and Part-II : Financial Bid (Price Bid)] as mentioned below:

5.1 Part-I : Technical & Commercial Bid

5.1.1 Part-I: Technical & Commercial Bid shall contain the following:

- (a) Duly signed "**Integrity Pact**" to be executed between the Bidder and Cochin Port Trust as per the proforma at **Annexure-8**.
- (b) Earnest Money Deposit as described in clause 3.11 above
- (c) Cost of bid Document as mentioned in the TCN.
- (d) A covering letter from the bidder.
- (e) A list of all documents accompanying the bid.
- (f) A declaration to the effect that (vide **Annexure-13**);
 - (i) the bidder has not made any payment or illegal gratification to any person/authority connected with the bid process so as to influence the bid process and has not committed any offence under PC Act in connection with the bid,
 - (ii) a statement disclosing payment made/proposed to be made to the intermediaries in connection with the bid,
 - (iii) no changes have been made in the tender document,
 - (iv) Financial Bid (Price Bid) does not contain any conditions.
- (g) In case the bidder is a Partnership firm,
 - (i) Certified copy of registered Partnership Deed.
 - (ii) Duly executed Power of Attorney, in the name of bidder's authorised representative to act on behalf of the bidder, duly authenticated by a notary public or equivalent certifying authority as per the proforma at **Annexure-2**;
- (h) In case the bidder is a limited company,
 - (i) Registration certificate of the company and Memorandum and Articles of Association of the company;
 - (ii) Duly executed Power of Attorney, in the name of bidder's authorised representative to act on behalf of the bidder, duly authenticated by a notary public or equivalent certifying authority as per the proforma at **Annexure-2**.

(i) In case the bidder is a JV/Consortium:

- (i) A legally binding JV/Consortium Agreement signed by authorized signatories of all the partners of the JV/Consortium, as per proforma at **Annexure-3**;
- (ii) Duly executed Power of Attorney, authorizing the representatives of all the partners of the JV/Consortium for signing the JV/Consortium Agreement, on behalf of the JV/Consortium partners, duly authenticated by a notary public or equivalent certifying authority as per proforma at **Annexure-9**,
- (iii) Power of attorney duly executed and signed by legally authorized signatories of all the partners, authorizing the Lead Partner: (a) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV /Consortium during the bidding process; and (b) in the event of a successful bid, to incur liabilities and receive instructions for and on behalf of the partner(s) of the JV /Consortium and to carry out the entire execution of the contract including payment, exclusively through Lead Partner, as per the proforma at **Annexure-4**, which shall be duly authenticated by a notary public or equivalent certifying authority.
- (iv) An undertaking that the partners of the JV/Consortium are jointly and severally liable to the Employer for the performance of the contract as per proforma at **Annexure-10**.

(j) Details of dredgers

- (i) Details of type of Dredger(s) / dredging equipment(s) proposed to be deployed for the work such as its type, number, daily dredging and disposal capacity of each dredger / dredging equipment(s) and other salient features as per **Table No.1A**.
- (ii) The possession of the dredger(s) / dredging equipment(s) proposed for deployment shall be by absolute ownership / disponent ownership/ time charter or bareboat charter for the duration of the proposed deployment.
- (iii) In the case of chartering the dredger, either an “Irrevocable Letter of Authority” from the owner of the dredger to the effect that the dredger so chartered shall not be withdrawn till the expiry of the contract period, or confirmed Chartering Agreement for the duration of the proposed deployment shall be produced by the bidder along with the bid.
- (iv) In case, the bidder whose bid is acceptable and has furnished only “Irrevocable Letter of Authority” as mentioned in sub-clause (c) above, a “Letter of Intent (LOI)” shall be issued in favour of the bidder and the bidder shall furnish a confirmed chartering agreement (s) of the dredger(s) proposed for deployment within Seven days of date of issue of LOI. In that case formal Letter of Acceptance (LOA) will be issued only thereafter.

- (v) **In case Dredging firm do not own the Dredger and plan to execute the dredging works by other modes of arranging the Dredgers either fully or partially by wet leasing, hire etc., the above firm has to pay additional performance guarantee of 5% in addition to the performance guarantee indicated in the tender which will be returned without interest after satisfactory completion of dredging work, in case the firm gets the contract.**
- (k) Detailed list of floating crafts and other equipment etc. which the bidder intends to utilize for this work including survey as per **Table No.1B**.
- (l) Details of survey launch and Motor Boat as per **Table No. IC**
- (m) Original / Notary certified copy of (a) the Letter of Acceptance (LOA); and (b) Completion Certificate specifying the completion cost, quantity, type of dredger(s) deployed, date of commencement and date of completion etc. of **Similar Works**, issued by the Owner of the respective work and other details, as per Table No.2.

Explanatory Notes:

In case the bidder wants to rely on the experience of holding companies or its other subsidiaries for meeting the requirement of pre-qualification, the experience certificate as described above in respect of the holding companies or its other subsidiaries, relied upon along with: (a) the legally binding unconditional agreement; and (b) guarantee to the Employer for the performance of the contract in all respects from the Parent Company, as per the Proforma at **Annexure -11**.

- (n) Works in hand/present commitments as per **Table No- 3**.
- (o) Personnel capabilities as per **Table No- 4** and **Table No- 4 (A)**.
- (p) Financial details as per **Table No- 5** and Audited Financial statements for the last three financial years.

Explanatory Notes:

In case the bidder wants to rely on the financial turnover of holding companies or its other subsidiaries for meeting the requirement of pre-qualification, the financial details as per **Table No- 5** excluding item III, in respect of the holding companies or its other subsidiaries, relied upon along with: (a) the legally binding unconditional agreement; and (b) guarantee to the Employer for the performance of the contract in all respects from the Parent Company, as per the Proforma at **Annexure - 11**.

- (q) The Departmental Bid Document including the Letter of Bid except the filled in Price Bid, Addendum/Corrigendum issued, if any, duly signed and sealed. The Schedule of Quantities contained in the technical & commercial bid document shall be left as such without filling in the rates.

The bidder shall also have the option to upload the downloaded hard copies itself and submit an Undertaking that bidder acknowledges and has perused the entire bid document along with addendum if any as published in the website, till the date of submission of bids.

- (r) Notary or equivalent certifying authority certified copy of the Certificate of Registry and latest valid certificate of class of the dredger(s) / dredging equipment(s) proposed for the work.
- (s) In case of Indian owner (Individual, Partnership or Company) proposing to convert his foreign flag vessel to Indian flag vessel before commencement of the work to claim right of first refusal, an Undertaking to this effect.
- (t) A note on the proposed methodology for execution of the work i.e. planning, dredging and disposal of spoil and progress of the work etc., so as to achieve the depth specified elsewhere in the contract.
- (u) An overall project schedule with detailed dredger deployment indicating total dredger months planned for each dredger.
- (v) In case of foreign firms, the statement be given to the fact that they have no claims pending against them from any State Authority in India with respect to Income Tax, Customs Duty, Sales Tax or any other dues.
- (w) Details of the Party opting for refund of EMD through e-payment system as per **Annexure-6** and Bank information for e-payment system as per **Annexure-7**.
- (x) **Copies of EPF , ESI, PAN and GST registration**
- (y) Details of litigations, if any, with the clients as per **Annexure-15**.
- (z) Any other information required in terms of this Bid Documents .

5.1.2 Part-II – Financial Bid (Price Bid)

Part-II – Financial Bid (Price Bid) shall contain only the “Schedule of Quantities”, which shall be submitted **in e-tendering mode only**.

5.2 Submission of Bids through e-tender mode.

The tenderers are required to submit the tender , ie.,(Part-I: Technical and Commercial bid & Part-II: Financial Bid (Price bid) in ‘***e-tender’ mode only***.

For online submission of Technical & Commercial Bid, the scanned copies of all the documents detailed in clause 5.1 above shall be submitted only through e-Tendering mode on www.tenderwizard.com/COPT. 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 the Table of TCN.

Price bid (Schedule of Quantities) in the provided format is to be submitted through e-tendering mode only on www.tenderwizard.com/COPT before 1430 Hrs on 29-12-2020. Price bid in hard copy need not be submitted.

5.3 **Submission of details in sealed cover**

- 5.3.1 The Bidder shall submit duly signed original **“Integrity Pact”** to be executed between the bidder and Cochin Port Trust for the Work, Original DD / Banker’s Cheque/BG towards the cost of tender/ EMD, Power of Attorney, if applicable along with letter of submission in a sealed cover, superscribing thereon the Tender Number, Name of Work, date notified for submission of tender and the name of the tenderer, should reach the office of the **Chief Engineer, Cochin Port Trust, Cochin-9, Kerala, India** on or before the time and the day notified in the Table of TCN. The above document in original can be brought either in person or sent by registered post/ courier.
- 5.3.2 The bidder shall ensure that his quoted amount as per PART-II: Financial Bid (Price Bid) is not mentioned in any other document directly or indirectly. If any such mention is made, the bid is liable to be rejected.
- 5.3.3 The successful Bidder shall submit original duly filled in signed copy of complete Technical & Commercial Bid already submitted in e-tendering mode within 7 days of receipt of Letter of Acceptance issued for the work.

6.0 **EVALUATIONS AND COMPARISON OF BIDS**

6.1 **General**

- 6.1.1 After the receipt of bids, if required, the Employer may depute a team of officials and they may inspect the facilities available with the bidder to ensure suitability of the same for achieving the requirements specified in the bid and working conditions of the dredger(s) and of the equipment listed to be deployed by the bidder for the work. The bidder shall ensure that aforesaid team shall at all the times have access to visit and inspect dredger(s), equipment etc. The travelling expenses including food and accommodation required for the inspection team shall be borne by the bidder at his own cost.

Employer reserves the right to open Financial Bid (Price Bid) of only such bidders whose Technical and Commercial Bid are acceptable and complete.

The Employer’s decision in this regard shall be final and binding on the bidder. The Employer may not open Price Bid of the bidders whose technical and commercial aspect of the proposal is not acceptable or is incomplete.

6.2 **Evaluation Criteria**

- 6.2.1 The Bids received and opened will be evaluated by Employer to ascertain the relative position of the best Bid in the interest of Employer, for the complete WORK covered by Bid Documents.
- 6.2.2 The Employer will award the contract to the Bidder whose bid has been determined to be eligible and responsive to the Bid documents and who has offered the lowest evaluated Price Bid.

6.3 Minimum Qualification Criteria

(a) Financial Turnover:

Average Annual Financial Turnover during the last three years ending 31st March 2020 shall be at least **Rs.1367 Lakhs**

(b) Experience:

Experience of having successfully completed Similar Works during last 7 years ending 30th November, 2020 should be either of the following:

- (i) Three Similar Works, EACH work either costing not less than **Rs.1367 Lakhs Crores** or involving in situ dredging quantity of not less than **2.04 Lakh cum.**

OR

- (ii) Two Similar Works, EACH work either costing not less than **Rs.1823Lakhs** or involving in situ dredging quantity of not less than **2.72 Lakh cum.**

OR

- (iii) One Similar Work either costing not less than **Rs.2734Lakhs** or involving in situ dredging quantity of not less than **4.08 Lakh cum.**

Similar Works means dredging and disposal of dredged spoil in marine environment using suitable dredger/ dredging equipment.

(c) Dredger availability:

The tenderer shall own a dredger / dredging equipment of adequate capacity to carry out the dredging **or**

In case, the dredgers proposed to be deployed for the work is made available on hire /charter, the tenderer shall produce an undertaking from the owner of dredger /dredging equipment for its ensured deployment till completion of the work.

Explanatory Notes:

- 1) In the case of chartering the dredger/ dredging equipment, either an “Irrevocable Letter of Authority” from the owner of the dredger/ dredging equipment to the effect that the dredger so chartered shall not be withdrawn till the expiry of the contract period, or confirmed Chartering Agreement for the duration of the proposed deployment shall be produced by the bidder along with the bid.
- 2) Following enhancement factors will be used for the costs of works executed for bringing the financial figures to a common base value in respect of the works completed in past years.

Table 1

Year before	Multiplying factor
One year [<i>November, 2019</i>]	1.07
Two years [November, 2018]	1.14
Three years [November, 2017]	1.21
Four years [November, 2016]	1.28
Five years [November, 2015]	1.35
Six years [November, 2014]	1.42

- 3) The experience certificate of works executed in private sectors/ organisations shall be considered for qualification, only on submission of TDS certificate along with work order and completion certificate, if work executed in India..
- 4) Satisfactory Client/ Owners’s Certificate or documentary proof shall be submitted in support of the assignments / works performed and claimed by the tenderer to fulfill the eligibility criteria for qualification. A statement duly certified by the Chartered Accountant showing the average annual Financial Turnover over the last 3 financial years and audited financial statements for the last three years shall be submitted .
- 5) The works reckoned for the above purpose are those executed by the tenderers as prime contractor or proportionately as member of joint venture or as a sub contractor authorized and approved by the Employer of the work(s) against which the tenderer has claimed his experience; documentary proof of such authorization / approval of the Employer shall also be submitted.
- 6) Completed portion of ongoing work till 30th November, 2020 for which payments have been already made will be considered against experience on submission of certificate of satisfactory completion of the portion of work from the Owner of the work. In case the actual execution period of the completed portion of work(s) exceeds one year, cost/quantity of such portion of completed work(s) shall be arrived at for a period of one year on pro-rata basis and the same shall only be reckoned against the requirement specified under the experience criteria.
- 7) In case of bid submitted by JV/Consortium, the Minimum Qualification Criteria EXCEPT Financial Turnover can be fulfilled collectively by the partners of the JV/Consortium. The Lead Partner of the JV/Consortium shall be the most experienced partner and shall meet the Minimum Qualification Criteria of Financial Turnover. In cases where actual execution period of the work considered above exceeds one year, cost/quantity of such work shall be arrived at for a period of one year on pro-rata basis and the same shall be reckoned for the above purpose.

Ongoing works complying with the requirements under para (6) above shall also be considered for the above purpose.

- 8) Authentic documents to prove the ownership of the dredger/ dredging equipment or an undertaking from the owner of dredger /dredging equipment for its ensured deployment till completion of the work shall be submitted.
- 9) Chartering / wet leasing of dredger does not constitute as work experience for the owner of the dredger.
- 10) For conversion of foreign currency to Indian Rupee, the rate prevailing as on due date of submission of bid will be considered.
- 11) Undertaking

In order to ensure that the dredger availability is assured throughout the contract period, the bidder shall furnish an Undertaking confirming that in case of successful bidder, they shall deploy suitable dredger(s) / dredging equipment(s) during the Contract Period of 6 months from the date of commencement. The names of dredgers proposed to be deployed along with the hopper capacity and alternate dredger(s) / dredging equipment(s) in case of substitution, shall also be provided.

6.4 Responsiveness of Bid

Bids which do not fulfill all or any of the above conditions or which contain any other condition of any sort including conditional rebates or are incomplete in any respect shall be summarily rejected. Such bids shall be entered in the bid opening register but their rates shall neither be read out nor entered in the register. Only a remark mentioning the reason of rejection in brief shall be appended against such entry.

6.5 First Right of Refusal

- (i) If Indian bidder(s) is/are involved, it will get the first right of refusal before the contract is given to any foreign company, if the bid of Indian bidder(s) is within 10% of the lowest offer and he/they is/are prepared to undertake the work by entering into a contract with the Employer exactly similar to the contract which would have been entered into with the lowest bidder, i.e. the contract shall be on a commercial format.
- (ii) Where there are more than one Indian bidder whose bids are within 10% of the lowest offer, then the first right of refusal will be given to the lowest among such Indian bidder and on his failure to match the lowest bidder, the next higher Indian bidder will be given the offer and so on.
- (iii) Indian bidder means Indian citizen/company/society either having Indian flag vessel(s) or having proposed in the bid for converting Foreign flag vessels to Indian flag vessel(s) before commencing the work. In case Indian bidder proposes for converting foreign flag vessel to Indian flag vessel before commencement of work, such offers shall be considered only against an Undertaking furnished by such

bidder that the dredger shall be converted to Indian flag prior to the commencement of the contract.

- (iv) An Indian bidder which is pre-qualified by relying on the credentials of a foreign company will not be eligible for claiming the first right of refusal.
- (v) In case the contract is awarded to an Indian bidder through the process of exercising the first right of refusal as detailed under (i) above and the work is executed by such bidder by deploying foreign flag vessel, penalty shall be imposed @ Rs.1,00,000/- (Rupees one lakh only) per day per dredger for the period of deployment of foreign flag vessel for the work.
- (vi) The sub-clauses (i) to (v) above are made as per various guidelines issued by the Ministry of Shipping (Directorate General of Shipping and also Ports Wing) regarding chartering of foreign flag vessels. Any further guidelines issued by the Ministry till the issue of LOA shall also be applicable for this contract.

7.0 BID OPENING

- 7.1 Part-I : Technical & Commercial Bid shall be opened **online** on the last date fixed for receiving the bid at 1500 hrs Indian Standard Time on 29-12-2020. At first, cover containing the duly signed “**Integrity Pact**” to be executed between the bidder and Cochin Port Trust for the Work shall be opened. Cover containing original document towards EMD and cost of bid Document as mentioned in the TCN of only those bidders who have furnished duly signed “Integrity Pact”, shall only be opened. The Bid of only those bidders shall be opened whose earnest money deposit and cost of bid Document as mentioned in the TCN is found to be in order. In case the earnest money is not deposited or is not in order, the bid will not be opened further. Only a mention to this effect shall be made in the bid opening register. The Part-I: Technical & Commercial Bid containing all particulars as detailed in sub-clause 5.1 above, required for determining the technical and financial capability of the bidder for executing the works under the bid will also be opened on the due date. The authenticity of the details furnished by the bidders shall be verified and confirmed as per the bid stipulation. Part-II: Financial Bid (Price Bid) of only those bidders satisfying the bid requirements and who have submitted the undertaking that Part-II: Financial Bid (Price bid) do not contain any conditions shall only be opened. After opening of Part-I : Technical & Commercial Bid it shall be thoroughly checked for completeness with respect to the details stipulated to be furnished in Part-I : Technical & Commercial Bid by the bidders. Part-II: Financial Bid (Price Bid) of those bidders found responsive and satisfactory on evaluation of Part-I: Technical & Commercial Bid, will be opened after giving notices to the short listed bidders on a date to be decided later.
- 7.2 The Chief Engineer or his duly authorized representative will open the bids on the day at the time and place stipulated above. In the event of a bid being rejected, the Earnest

Money will be refunded to the bidder by the Financial Adviser & Chief Accounts Officer, Cochin Port Trust directly.

7.3 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.

7.4 Part-II: Financial Bid (Price Bid)

Price Bids of only those Bidders whose Technical and Commercial proposals are complete and acceptable shall be opened on a suitable date to be intimated separately later.

8.0 LETTER OF ACCEPTANCE

8.1 The acceptance of bid and award of contract shall be based on instructions and guidelines issued on dredging projects by the Govt. of India till the date of issue of Letter of Acceptance (LOA).

8.2 The successful bidder will be informed regarding the acceptance of his bid through a Letter of Acceptance (LOA) issued by the Employer.

8.3 The bidder whose bid is accepted shall convey his acknowledgement of receipt of the LOA within 7 (Seven) days of its receipt.

8.4 In the Bid submission, the Bidder shall compulsorily indicate two nos. of current email addresses to which further bid related communication can be sent by CoPT. All communication from CoPT shall be deemed to have been delivered when the email is sent to the specified email addresses, i.e., the date of sending email by CoPT shall be considered as the date of receipt by the Bidder. CoPT shall, in no way, be responsible for the non-receipt of any such communication by the Bidder due to whatever reasons on this account.

9.0 SIGNING OF THE CONTRACT

9.1 The successful bidder shall be required to execute an agreement at his expense on Kerala State stamp paper of proper value as per the Proforma indicated at Annexure – 12 to the bid document for the due and proper fulfilment of the contract, within 28 days after the date of the Letter of Acceptance or within such extended time as may be permitted by the Employer in this behalf. In case of the bidder who have received the Letter of Intent,

agreement shall be executed within 21 days after the date of the Letter of Acceptance or within such extended time as may be permitted by the Employer in this behalf. Till such time, the bid together with the acceptance letter of the Board shall constitute a binding contract between the two parties.

- 9.2 In addition to the above, the successful bidder will be required to furnish a Performance Security through an irrevocable Bank Guarantee (BG), enforceable and encashable at Kochi, drawn from any Nationalised Bank / Scheduled Bank in India which has net worth not less than Rs.100 Crores and which is acceptable to the Employer, as per the Proforma enclosed at ***Annexure-1*** to the bid document. The Bank Guarantee shall be for an amount of 10% of the Accepted Contract Amount, which shall be furnished within 21 (Twenty one) days on receipt of Letter of Acceptance (LOA) of the bid and will remain in force till 30 days after the satisfactory performance of the contract and will be discharged thereafter subject to the condition stated therein. The obtaining of such guarantee shall be at the expense of the contractor in all respects. No interest is payable by the Employer on the guarantee amount. The BG shall be forfeited in full or part as decided by the Chief Engineer, whose decision will be final and binding on the Contractor, on failure of the Contractor to perform or non-fulfillment of the terms and conditions of the Contract by the Contractor.
- 9.3 Failure to comply with the conditions under sub-clauses 9.1 & 9.2 above will entail rejection of his bid with forfeiture of EMD. The time schedule for submission Performance Security shall be strictly adhered to.
- 9.4 Balance Security Deposit in excess of the EMD deposited in Bank Guarantee will be recovered as retention from the Running Account bills at 5% of bill value.

10.0 RELEASE OF EMD

- 10.1 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 as per Cl. 9.2 above.

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## IV. GENERAL CONDITIONS OF CONTRACT

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## IV. GENERAL CONDITIONS OF CONTRACT

### 1. General Provisions

1.1 Definitions In the Conditions of Contract ("these Conditions"), the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

1.1.1 The Contract 1.1.1.1 "Contract" means the Contract Agreement, the Letter of Acceptance, the Letter of Bid, these Conditions, the Specification, the Drawings, the Schedules, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.

1.1.1.2 "Contract Agreement" means the contract agreement (if any) referred to in Sub-Clause 1.6 [Contract Agreement].

1.1.1.3 "Letter of Acceptance" means the letter of formal acceptance, signed by the Employer, of the Bid submitted by the bidder, including any annexed documents.

1.1.1.4 "Letter of Intent" means intimation prior to Letter of Acceptance, issued to the bidder whose bid is acceptable.

1.1.1.5 "Letter of Bid" means the document entitled letter of bid, completed by the Contractor and includes the signed offer to the Employer for the Works.

1.1.1.6 "Specification" means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

1.1.1.7 "Drawings" means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract.

1.1.1.8 "Schedules" means the document(s) entitled schedules, completed by the Contractor and submitted with the Letter of Bid, as included in the Contract. Such document may include the Schedule of Quantities, data, lists, and schedule of rates and/or prices.

1.1.1.9 "Bid" means the Letter of Bid and all other documents, which the Contractor submitted with the Letter of Bid, as included in the Contract.

1.1.1.10 "Appendix to Bid" means the completed pages entitled appendix to bid ie. addendum/corrigendum, minutes of Pre-bid meeting/ any clarifications which are appended, to form part of the Letter of Bid.

1.1.2 1.1.2.1 "Party" means the Employer or the Contractor, as the context requires.

1.1.2 Parties and Persons 1.1.2.2 "Employer" means the Board of Trustees of Cochin Port Trust constituted under the Major Port Trust Act 1963 as amended by the Major Port Trust's Amendment Act 1982 or its authorized representative.

1.1.2.3 "Contractor" means the person/persons or firm or company/jointventure company or consortium of companies whose bid is accepted by the Board and includes the Contractor's authorised agents, successors and



permitted agents.

1.1.2.4"Engineer" means the Chief Engineer of the Cochin Port Trust

1.1.2.5" Dy. Conservator" means the Deputy Conservator of the Port.

1.1.2.6."Engineer-in-charge" means the Superintending Engineer in charge of the work

1.1.2.7"Contractor's Representative" means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Sub-Clause 4.3 [Contractor's Representative], who acts on behalf of the Contractor.

1.1.2.8"Employer's Personnel" means the Engineer, the assistants referred to in Sub-Clause 3.2 [Delegation by the Engineer] and all other staff, labour and other employees of the Engineer and of the Employer; and any other personnel notified to the Contractor, by the Employer or the Engineer, as Employer's Personnel.

1.1.2.9"Contractor's Personnel" means the Contractor's Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Sub-contractor; and any other personnel assisting the Contractor in the execution of the Works.

1.1.2.10"Sub-contractor" means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works; and the legal successors in title to each of these persons.

1.1.3

Dates, Tests, Periods  
and Completion

1.1.3.1 "Base Date" means the date 14 days prior to the latest date for submission of the Bid.

1.1.3.2"Commencement Date" means the date notified under Sub-Clause 6.1 [Commencement of Work].

1.1.3.3"Time for Completion" means the time for completing the Works or a Section (as the case may be) under Sub-Clause 6.2 [Time of Completion, Compensation for Delay to Contractor's Negligence], as stated in the Appendix to Bid (with any extension under Sub-Clause 6.4 [Extension of Time for Completion]), calculated from the Commencement Date.

1.1.3.4"Taking-Over Certificate" means a certificate issued under Clause 7 [Employer's Taking Over].

1.1.3.5"Performance Certificate" means the certificate issued under Sub-Clause 8.1[Performance Certificate].

1.1.3.6"Day" means a calendar day and "Year" means 365 days.

1.1.4

M o n e y   a n d  
P a y m e n t s

1.1.4.1"Accepted Contract Amount" means the amount accepted in the Letter of Acceptance for the execution and completion of the Works.

1.1.4.2"Contract Price" means the price defined in Sub-Clause 10.1 [The Contract Price], and includes adjustments in accordance with the Contract.

1.1.4.3"Cost" means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar

charges, but does not include profit.

1.1.4.4 "Final Payment Certificate" means the payment certificate issued under Sub-Clause 10.12 [Issue of Final Payment Certificate].

1.1.4.5 "Final Statement" means the statement defined in Sub-Clause 10.10 [Application for Final Payment Certificate].

1.1.4.6 "Currency" means Indian Rupees in which all of the Contract Price is payable.

1.1.4.7 "Interim Payment Certificate" means a payment certificate issued under Clause 10 [Contract Price and Payment], other than the Final Payment Certificate.

1.1.4.8 "Payment Certificate" means a payment certificate issued under Clause 10 [Contract Price and Payment].

1.1.4.9 "Security Deposit" means the amount retained by the Employer from the running account bill.

1.1.4.10 "Statement" means a statement submitted by the Contractor as part of an application, under Clause 10 [Contract Price and Payment] for a Payment Certificate.

#### 1.1.5

##### Works and Goods

1.1.5.1 "Contractor's Equipment" means dredger, floating crafts, survey launch, all apparatus, machinery, and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Employer's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

1.1.5.2 "Goods" means Contractor's Equipment and Temporary Works, or any of them as appropriate.

1.1.5.3 "Plant" means the apparatus, machinery and vehicles intended to form or forming part of the Works.

1.1.5.4 "Section" means a part of the Works specified in the Appendix to Bid as a Section (if any).

1.1.5.5 "Temporary Works" means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

1.1.5.6 "Works" mean the works to be executed in accordance with the Contract.

#### 1.1.6

##### Other Definitions

1.1.6.1 "Contractor's Documents" means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.

1.1.6.2 "Country" means India in which the Site (or most of it) is located, where the Works are to be executed.

1.1.6.3 "Employer's Equipment" means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the contractor in the execution of the Works, as stated in the specification; but does not include Plant which has not been taken over by the Employer.

1.1.6.4"Force Majeure" is defined in Clause 15 [Force Majeure].

1.1.6.5"Laws" means all national (Indian) (or state (Kerala)) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.

1.1.6.6"Performance Security" means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].

1.1.6.7"Site" means the places where the Works are to be executed and to which Plant and materials are to be delivered.

1.1.6.8"Unforeseeable" means not reasonably foreseeable by an experienced contractor by the date for submission of the Bid.

1.1.6.9"Variation" means any change to the Works, which is instructed or approved as a variation under Clause 9 [Variations and Adjustments].

1.2  
Interpretation

In the Contract, except where the context requires otherwise:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing, and
- (d) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

1.3  
Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices and requests, these communications shall be:

- (a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Appendix to Bid; and
- (b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Appendix to Bid. However:
  - (i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
  - (ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer, a copy shall be sent to the Engineer or the other Party, as the case may be.

1.4

The Contract shall be interpreted and have effect in accordance with the Law of

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Law and Language                    | <p>India and no suit or other proceedings relating to this contract shall be filed or taken by the contractor in any court of law except in the court of competent jurisdiction in Kochi. (Refer clause 2. 37 of Special Conditions of Contract).</p> <p>The language for communications shall be the English language</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1.5<br>Priority of Documents        | <p>The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:</p> <ul style="list-style-type: none"> <li>(a) The Contract Agreement (if completed),</li> <li>(b) The Letter of Acceptance</li> <li>(c) The priced Schedule of Quantities,</li> <li>(d) Bid Clarification,</li> <li>(e) The Technical Specification, Special Conditions of Contract and Information in Appendix to Bid.</li> <li>(f) The General Conditions of Contract.</li> <li>(g) The Drawings and Annexures to the bid document.</li> <li>(h) All Post bid correspondence and any other document forming part of Contract</li> </ul> <p>If any ambiguity or discrepancy is found in the documents, the Engineer shall issue any necessary clarification or instruction.</p> |
| 1.6<br>Contract Agreement           | <p>The Parties shall enter into a Contract Agreement within 28 days after the date of the Letter of Acceptance, or within such time as extended by the Engineer. In case of the bidder who have received the Letter of Intent, Contract Agreement shall be executed within 21 days after the date of the Letter of Acceptance or within such extended time as may be permitted by the Employer in this behalf. The Contract Agreement shall be in the prescribed departmental form annexed to the bid and is on Kerala State stamp paper of proper value. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement and connected expenses shall be borne by the bidder. Till such time, the bid together with the acceptance letter of the Board/Employer shall constitute a binding contract between the two parties.</p>          |
| 1.7<br>Assignment                   | <p>The Contractor shall not assign the whole or any part of the work to any other Party/Firm/Individual without prior written consent of the Employer.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1.8<br>Care and Supply of Documents | <p>The Specification and Drawings shall be in the custody and care of the Employer. Unless otherwise stated in the Contract, one copy of the Contract and of each subsequent Drawing shall be supplied to the Contractor, who may make or request further copies at the Cost of the Contractor.</p> <p>Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Engineer six copies of each of the Contractor's Documents.</p>                                                                                                                                                                                                                                                                                                                 |

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect of a technical nature in a document, which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.9  
Employer's Use of  
Contractor's  
Documents

As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free Licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This Licence shall:

- (a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- (b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- (c) in the case of Contractor's Documents, which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor. (In case the Contractor's computer(s) in which the Computer Programs and other software installed are made available at site and is accessible to the Employer for checking and verification, the installation of the computer programs and other software on any other computer shall not be insisted by the Employer.)

The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third Party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

1.10  
Contractor's use of  
Employer's  
Documents

As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Employer. The Contractor may, at his Cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third Party by the Contractor, except as necessary for the purposes of the Contract.

1.11  
Confidential Details

The Contractor shall disclose all such confidential and other information as the Engineer may reasonably require in order to verify the Contractor's compliance with the Contract.

1.12  
Compliance with  
Laws

The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise:

- (a) the Employer shall have obtained (or shall obtain) the planning, zoning or similar permission for the Permanent Works, and any other permissions described in the Specification as having been (or being) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- (b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.
- (c) The Contractor shall conform in all respects with the provisions of any such Statute, Ordinance or Law as aforesaid and the Regulations or Bye-laws of any local or other duly constituted authority which may be applicable to the Work or to any Temporary work and with such rules and regulations of Public bodies and Companies as aforesaid and shall keep the Employer indemnified against all penalties and liability of every kind for breach of any such Statute, Ordinance or Law, Regulation or Bye-Laws.

1.13  
Joint and Several  
Liability

If the Contractor constitutes (under applicable Laws) a joint venture company/ consortium of companies or other unincorporated grouping of two or more persons/ companies, these persons/ companies shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract.

1.14  
Details to be  
Confidential

The Contract involves an obligation of secrecy and the Contractor, his agents, servants or Sub-contractor or their agents or servants shall observe and comply with the requirements of the Indian Official Secrets Act 1923, and the rules there under or any statutory modifications or re-enactments thereof. Any breach of this clause shall constitute a breach of the Contract.

The Contractor shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out obligations under it or to comply with applicable Laws. The Contractor shall not publish, permit to be published or disclose any particulars of the Works in any trade or technical paper of elsewhere without the previous agreement of the Employer.

No photographs of the Port area shall be taken or permitted by the Contractor to be taken by any of his employees without the approval of the Competent Authority and no such photographs shall be published, or otherwise circulated without the approval of the Board.

## 2. The Employer

2.1

The Employer shall give the Contractor right of access to, and possession of all

Right of Access to the Site parts of the Site within the time (or times) stated in the Appendix to Bid. The right and possession may not be exclusive to the Contractor. However, the Employer may withhold any such right or possession until the Performance Security has been received.

If no such time is stated in the Appendix to Bid, the Employer shall give the Contractor right of access to, and possession of the Site within such times as may be required to enable the Contractor to proceed in accordance with the programme submitted under Sub-Clause 6.3 [*Dredging Programme*].

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4 [*Extension of Time for Completion*], and
- (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub Clause 3.4 [*Determinations*] to agree or determine these matters.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

2.2 Permits, Licences or Approvals The Employer shall (where he is in a position to do so) provide reasonable documentary assistance to the Contractor at the request of the Contractor without any financial commitment,

- (a) by obtaining copies of the Laws of the Country which are relevant to the Contract but are not readily available, and
- (b) for the Contractor's applications for any permits, Licences or approvals required by the Laws of the Country:
  - (i) which the Contractor is required to obtain under Sub - Clause 1.12 [*Compliance with Laws*],
  - (ii) for the delivery of Goods, including clearance through customs, and
  - (iii) for the export of Contractor's Equipment when it is removed from the Site.

2.3 Employer's Personnel The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other Contractors on the Site:

- (a) co-operate with the Contractor's efforts under Sub-Clause 4.5 [*Co-operation*], and
- (b) take actions similar to those, which the Contractor is required to take under sub paragraphs (a), (b) and (c) of Sub-Clause 4.7 [*Safety Procedures*] and under Sub-Clause 4.16 [*Protection of the Environment*].

2.4 If the Employer considers himself to be entitled to any payment under any Clause

## Employer's Claims

of these Conditions or otherwise in connection with the Contract, and/or otherwise, the Employer or the Engineer shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.17 [*Site Facilities*].

The notice shall be given within 15 days after the Employer became aware of the event or circumstances giving rise to the claim.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Engineer shall then proceed in accordance with Sub-Clause 3.4 [*Determinations*] to agree or determine the amount (if any) which the Employer is entitled to be paid by the Contractor.

This amount may be included as a deduction in the Contract Price and Payment Certificates. The Employer shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Sub-Clause.

## 3. The Engineer

### 3.1

#### Engineer's Duties and Authority

The Engineer's staff shall include suitably qualified Engineers and other professionals who are competent to carry out these duties.

The Engineer shall have no authority to amend the Contract

The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the Contract. The Engineer shall obtain prior approval of the Employer for giving any instructions to the Contractor or taking any action on aspects, which are beyond the scope of the contract. The Employer undertakes not to impose further constraints on the Engineer's authority, except as agreed with the Contract.

However, whenever the Engineer exercises a specified authority for which the Employer's approval is required, then (for the purposes of the Contract) the Employer shall be deemed to have given approval.

Except as otherwise stated in these Conditions:

- (a) whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Engineer shall act for the Employer;
- (b) the Engineer has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract; and
- (c) any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test or similar act by the Engineer (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances.

### 3.2

#### Delegation by the Engineer

The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by the Contractor.

Each assistant, to whom duties have been assigned or authority has been



delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

- (a) any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer to reject the work, Plant or Materials.
- (b) if the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

3.3  
Instructions of the  
Engineer

The Engineer may issue to the Contractor (at any time) instructions and additional or modified Drawings, which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under this Clause.

The Contractor shall comply with the instructions given by the Engineer or delegated assistant, on any matter related to the Contract and no claim of any sort shall be made for deviating from the original dredging programme. Whenever practicable, their instructions shall be given in writing. If the Engineer or a delegated assistant:

- (a) gives an oral instruction,
- (b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working Days after giving the instruction, and does not reply by issuing a written rejection and/or instruction within two working Days after receiving the confirmation, then the confirmation shall constitute the written instruction of the Engineer or delegated assistant (as the case may be).

3.4  
Determinations

Whenever these Conditions provide that the Engineer shall proceed in accordance with this Sub-Clause 3.4 to agree or determine any matter, the Engineer shall consult with the Contractor in an endeavour to reach agreement. If agreement is not achieved, the Engineer shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances

The Engineer shall give notice to the Contractor of each agreement or determination, with supporting particulars. Each Party shall give effect to each agreement or determination unless and until revised under Clause 16 [*Contractor's Claims*]

3.5  
Management Meetings

The Contractor's Representative shall attend management meetings in order to review the progress and arrangements for future work. The Engineer shall record the business of management meetings and supply copies of the record to those attending the meeting.

4. The Contractor

- 4.1 Contractor's Obligations      General
- The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Engineer's instructions, and shall remedy any defects in the Works.
- The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.
- The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of dredging. Except to the extent specified in the Contract, the Contractor (i) shall be responsible for all Contractor's Documents, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and (ii) shall not otherwise be responsible for the design or Specification of the Permanent Works.
- The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods, which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Engineer.
- 4.2 Performance Security
- The Contractor shall obtain (at his Cost) and submit a Performance Security for proper performance, in the amount, currencies and mode stated in the Appendix to Bid.
- The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 Days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.
- The Employer shall not make a claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract in the event of:
- (a) failure by the Contractor to extend the validity of the Performance Security as described in the preceding paragraph, in which event the Employer may claim the full amount of the Performance Security,
  - (b) failure by the Contractor to pay the Employer an amount due, under Clause 16 [*Contractor's Claims*], within 42 Days after this agreement or determination,
  - (c) failure by the Contractor to remedy a default within 42 Days after receiving the Employer's notice requiring the default to be remedied, or
  - (d) circumstances, which entitle the Employer to termination under Sub-Clause 11.2 [*Termination by Employer*], irrespective of whether notice of termination has been given.
- The Employer shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Employer was not entitled to make the claim.
- The Employer shall return the Performance Security to the Contractor within 30

Days after receiving a copy of the Performance Certificate.

#### 4.3 Contractor's Representative

The Contractor shall appoint a single person as the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.

Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Engineer for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement.

The whole time of the Contractor's Representative shall be given to directing the performance of the Contract. If the Contractor's Representative is to be temporary absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer's prior consent, and the Engineer shall be notified accordingly.

The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [*Instructions of the Engineer*].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Engineer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative and all these persons shall be fluent in the language for communications defined in Sub-Clause 1.4 [*Law and Language*].

The Contractor's Representative and all their persons shall also be fluent in English and Hindi, if Contractor's Representative, or these persons, is not fluent in the above languages, the Contractor shall make a competent interpreter available during all working hours.

#### 4.4 Sub-contractors

The Contractor shall not subcontract the whole of the Works. However, part work may be assigned by the Contractor to Sub-contractor(s) approved by the Employer.

The Contractor shall be responsible for the acts or defaults of any Sub-contractor, his agents or employees, as if they were the acts or defaults of the Contractor. However, unless otherwise stated, in case subcontract is approved by Employer then;

- (i) the Contractor shall give the Engineer not less than 15 Days' notice of the intended date of the commencement of each Sub-contractor's work, and of the commencement of such work on the Site; and
- (ii) each subcontract shall include provisions, which would entitle the Employer to require the subcontract to be assigned to the Employer in the event of termination under Sub-Clause 11.2 [*Termination by Employer*].

- 4.5  
Co-operation
- The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:
- (a) the Employer's Personnel,
  - (b) any other Contractors employed by the Employer, and
  - (c) the personnel of any legally constituted public authorities,
- who may be employed in the execution on or near the Site of any work not included in the Contract.
- Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to incur Unforeseeable Cost. Services for these personnel and other Contractors may include the use of Contractor's Equipment, or access arrangements, which are the responsibility of the Contractor.
- 4.6  
Setting Out
- The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract or notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.
- 4.7  
Safety Procedures
- The Contractor shall:
- (a) comply with all applicable safety regulations,
  - (b) take care for the safety of all persons entitled to be on the Site,
  - (c) use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons.
- 4.8  
Quality Assurance
- The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Engineer shall be entitled to audit any aspect of the system.
- Details of all procedures and compliance documents shall be submitted to the Engineer for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Engineer, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.
- Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.
- 4.9  
Site Data
- The Employer shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Employer's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Employer shall similarly make available to the Contractor all such data, which come into the Employer's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.
- To the extent which was practicable (taking account of Cost and time), the

Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence the Bid or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Bid as to all relevant matters, including (without limitation):

- (a) the form and nature of the Site, including sub-surface conditions,
- (b) the hydrological, oceanographic and climatic conditions,
- (c) the extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,
- (d) the Laws, procedures and labour practices of the Country, and
- (e) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

4.10  
Sufficiency of the  
Accepted Contract  
Amount

The Contractor shall be deemed to:

- (a) have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and
- (b) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.9 [*Site Data*].

Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract and all things necessary for the proper execution and completion of the Works and the remedying of any defects.

4.11  
Unforeseeable Physical  
Conditions

In this Sub-Clauses, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.

If the Contractor encounters adverse physical conditions, which he considers to have been Unforeseeable, the Contractor shall give notice to the Engineer as soon as practicable and within 24 hours.

This notice shall describe the physical conditions, so that they can be inspected by the Engineer, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions, which the Engineer may give. If an instruction constitutes a Variation, Clause 9 [*Variations and Adjustments*] shall apply.

If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4 [*Extension of Time for Completion*], and
- (b) payment of any such Cost, which shall be added to the Contract Price.

The Engineer may take account of any evidence of the physical conditions

foreseen by the Contractor when submitting the Bid, which may be made available by the Contractor, but shall not be bound by any such evidence.

4.12  
Rights of Way and  
Facilities

The Contractor shall bear all Costs and charges for special and/or temporary rights of-way which he may require, including those for access to the Site. The Contractor shall also obtain, at his risk and Cost, any additional facilities outside the Site, which he may require for the purposes of the Works.

4.13  
Avoidance of  
Interference

The Contractor shall not interfere unnecessarily or improperly with the convenience of the public.

The Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any unnecessary or improper interference.

4.14  
Access Route

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site.

Except as otherwise stated in these Conditions:

- (a) the Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route,
- (b) the Employer does not guarantee the suitability or availability of particular access routes, and costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

4.15  
Contractor's equipment

The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works and shall be retained at the Site till the completion of the work. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Engineer. Such consent will not be refused by the Engineer if it is established that the particular equipment is not required for further execution of contract.

4.16  
Protection of the  
Environment

- a) The Contractor shall take all reasonable steps to protect the environment(both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise, or other causes arising as a consequence to his method of operation.
- b) The Contractor shall ensure that emissions and effluent from the Contractor's activities and noise shall not exceed the values prescribed by applicable Laws.
- c) In order to ensure that there is no deterioration in environmental quality during the execution phase of work, required remedial measures should be taken whenever warranted. National and International conventions /legislations on shipping and port sector, and environmental protection should be strictly adhered to.

- 4.17 Facilities Supplied by the Contractor
- Site Facilities The Contractor shall supply all services, amenities, temporary structures including security fencing and storage compounds, machinery and buildings necessary for the proper execution of the Works at Site at his Cost .
- The Contractor shall provide and maintain a suitable office at Kochi to which the Board or its representatives may send communications and instructions.
- 4.18 Progress Reports
- Unless otherwise stated, monthly progress reports shall be prepared by the Contractor and submitted to the Engineer in six copies. 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 7 Days 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.
- The Contractor shall keep up the following documents for monitoring the progress of the work.
- a) the details described in Sub-Clause 5.10 [*Records of Contractor's Personnel and Equipment*];
  - b) copies of latest sounding charts;
  - c) list of notices given under Sub-Clause 2.4 [*Employer's Claims*]and notices given under Sub-Clause 16.1 [*Contractor's Claims*];
  - d) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
  - e) Comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.
- 4.19 Security of the Site
- Unless otherwise stated:
- (a) the Contractor shall be responsible for keeping unauthorised persons off the Site, and
  - (b) authorised persons shall be limited to the Contractor's Personnel and the Employer's Personnel; and to any other personnel notified to the Contractor, by the Employer or the Engineer, as authorised personnel of the Employer's other Contractors on the Site.
- The Contractor shall, throughout the Contract period, have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the work (so far as the same is completed or occupied by the Employer) in orderly state appropriated to the avoidance of danger to such persons.
- 4.20 Contractor's Operations on Site
- The Contractor shall confine his operations to the Site, and to any additional areas, which may be obtained by the Contractor and agreed by the Engineer as working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these

additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose off any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage and, rubbish and Temporary Works, which are no longer, required.

Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, and rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition.

4.21

Fossils

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered during the work shall, as between the Employer and the Contractor, be deemed to be the absolute property of the Employer and the Contractor shall take responsible precautions to prevent his workman or any other persons, from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal acquaint the Employer of such recovery and carryout, at the expense of the Board the disposal of the same, as per the order of Engineer.

The Contractor shall, upon discovery of any such finding, promptly give notice to the Engineer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4 [*Extension of Time for Completion*], and
- (b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this further notice, the Engineer shall proceed in accordance with Sub Clause 3.4 [*Determinations*] to agree or determine these matters.

## 5. Staff and Labour

5.1

Engagement of Staff and Labour

Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

5.2

Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions, which are not lower than the general level of wages, and conditions observed locally by Employers whose trade or industry is similar to that of the Contractor.



- 5.3  
Persons in the Service of Employer
- The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer's Personnel.
- 5.4  
Labour Laws
- The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.
- The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.
- 5.5  
Working Hours
- The Contractor is free to work throughout Day and night and even on holidays.
- 5.6  
Facilities for Staff and Labour
- Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Specification.
- 5.7  
Health and Safety
- The Contractor shall comply with all statutory requirements in respect of health and sanitation of his employees.
- The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make Reports concerning health, safety and welfare of persons, and damage to property, as, the Engineer may reasonably require.
- 5.8  
Contractor's Superintendence
- (a) Throughout the execution of the Works, and as long thereafter as is necessary to fulfill the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.
- Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [*Law and Language*]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.
- A reasonable proportion of the Contractor's Superintending staff shall have a working knowledge of English or the Contractor shall have a sufficient number of competent interpreters available during all working hours.
- (b) *Foreign Staff and Labour:*
- The Contractor may import any personnel who are necessary for the execution of the Works. The Contractor must ensure that these personnel are provided with the required residence visas and work permits. The Contractor shall be responsible for the return to the place where they were recruited or to their domicile of imported Contractor's Personnel. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate

arrangements for their return or burial.

*( c ) Measures against Insect and Pest Nuisances:*

The Contractor shall at all times take necessary precautions to protect all staff and all labour employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall provide suitable prophylactics for the Contractor's Personnel and shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

*(d) Alcoholic Liquor or Drugs:*

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs or permit or allow importation, sale, gift, barter, or disposal by Contractor's Personnel.

*(e) Arms and Ammunition:*

The Contractor shall not give, barter or otherwise dispose of to any person any arms or ammunition of any kind, or allows Contractor's Personnel to do so.

*(f) Festival and religious customs*

The contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.

5.9  
Contractor's Personnel

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract, or
- (d) persists in any conduct, which is prejudicial to safety, health, or the protection of the environment.

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

5.10  
Records of Contractor's  
Personnel and  
Equipment

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, 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

5.11  
Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

## 6. Commencement, Delays and Suspension

### 6.1

Commencement of Work      The Contract period (6 months) of dredging work shall be from the date of expiry of 30 days from the date of t of Letter of Acceptance Or date of actual commencement of Work whichever is earlier.

In case of the bidder who have received the Letter of Intent, Contract period of dredging work shall be from the date of expiry of 23 days from the date of issue of Letter of Acceptance Or date of actual commencement of Work whichever is earlier .

The Contractor shall commence the execution of the Work not later than the date of expiry of 30days from the date of Letter of Acceptance. In case of the bidder who have received the Letter of Intent, bidder shall commence the execution of the Work not later than the date of of 23 days from the date of receipt of Letter of Acceptance.

### 6.2

Time of Completion, Compensation for Delay to Contractor's Negligence

The Contractor shall complete the whole works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), as detailed under the Special Conditions of Contract or stated elsewhere in the tender.

In the event of the Contractor failing to comply with the requirements under Sub Clause 2.47 of the Special Conditions of Contract, recovery shall be made, as per Sub Clause 2.47 'Recovery towards shortfall in performance' of the Special Conditions of Contract.

### 6.3

Dredging Programme

Refer Clause 2.7 [*Dredging Programme*] of the Special Conditions of Contract.

If, at any time, the Engineer gives notice to the Contractor that a dredging programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Engineer.

### 6.4

Extension of Time for Completion

The Contractor shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*]to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 7.1 [*Taking Over of the Works*] is or will be delayed by any of the following causes:

- (a) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,
- (b) exceptionally adverse climatic conditions,
- (c) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or
- (d) Any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other Contractors on the Site.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Engineer in accordance with Sub-Clause 16.1 [*Contractor's Claims*]. When determining each extension of time under Sub-Clause 16.1 [*Contractor's Claims*], the Engineer shall review previous determinations and may increase, but shall not decrease, the total extension of time.

- 6.5  
Delays caused by Authorities
- If the following conditions apply, namely:
- a) The Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in the Country,
  - b) these authorities delay or disrupt the Contractor's work, and,
  - c) the delay or disruption was Unforeseeable, then this delay or disruption will be considered as a cause of delay under subparagraph (b) of Sub-Clause 6.4 [*Extension of Time for Completion*].
- 6.6  
Rate of Progress
- If, at any time:
- actual progress is too slow to complete within the Time for Completion, other than as a result of a cause listed in Sub-Clause 6.4 [*Extension of Time for Completion*], then the Engineer may instruct the Contractor to submit, under Sub-Clause 6.3 [*Dredging Programme*], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.
- Unless the Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the dredging capacity and/or in the numbers of Contractor's Personnel, at the risk and Cost of the Contractor.
- 6.7  
Contractor's responsibility
- Notwithstanding the payment of liquidated damages (Rebate/Recovery) if any under sub-clause 6.2 [*Time of Completion, Compensation for Delay to Contractor's Negligence*], this shall not relieve the Contractor from his obligation to complete the work or from any other obligations / liabilities under this Contract.
- 6.8  
Suspension of Work
- The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works.
- The Engineer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub Clauses 6.9 [*Consequences of Suspension*], and 6.10 [*Prolonged Suspension*] shall not apply.
- 6.9  
Consequences of Suspension
- If the Contractor suffers delay and/or incurs Cost from complying with the Engineer's instructions under Sub-Clause 6.8 [*Suspension of Work*] and /or from resuming the work, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*] to:
- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4 [*Extension of Time for Completion*], and
  - (b) payment of any such Cost, which shall be included in the Contract Price.
- After receiving this notice, the Engineer shall proceed in accordance with Sub Clause 3.4 [*Determinations*] to agree or determine these matters.

The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design or workmanship.

6.10  
Prolonged Suspension

If the suspension under Sub-Clause 6.8 [*Suspension of Work*] has continued for more than 84 Days, the Contractor may request the Engineer's permission to proceed.

6.11  
Resumption of Work

After the permission or instruction to proceed is given, the Contractor and the Engineer shall jointly examine the Works affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works, which has occurred during the suspension.

## 7. Employer's Taking Over

### 7.1.

Taking over of the Works

The Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 6.2 [*Time of Completion, Compensation for Delay to Contractor's Negligence*] and except as allowed in sub-paragraph (a), below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Engineer for a Taking-Over Certificate not earlier than 14 Days before the Works will, in the Contractor's opinion, be complete and ready for taking over.

The Engineer shall, within 28 Days after receiving the Contractor's application:

- (a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- (b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

If the Engineer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 Days, and if the Works or Section (as the case may be) are substantially completed in accordance with the Contract, the Taking Over Certificate shall be deemed to have been issued on the last Day of that period.

## 8. Defects Liability

### 8.1 Performance

#### Certificate

Performance of the Contractor's obligations shall not be considered to have been completed until the Engineer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract. Subject to complying with all requirements, Engineer shall issue the Performance Certificate within 45 days of Contractor's notice or 15 days from the date of issuing 'Taking Over Certificate' whichever is later.

### 8.2

Deleted

#### Unfulfilled Obligations

### 8.3

#### Clearance of Site

Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

If all these items have not been removed within 28 Days after the Employer receives a copy of the Performance Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the Costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Employer's Costs, the Contractor shall pay the outstanding balance to the Employer.

## 9. Variations and Adjustments

No Price Variation will be applicable in this contract except due to change in legislation to the taxes and duties

### 9.1

#### Payment in Applicable Currencies

All the payments under this Contract shall be made in Indian Rupees only.

### 9.2

#### Adjustments for Changes in Legislation

The Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of the Country (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.

If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*]to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4[*Extension of Time for Completion*], and

(c) payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub Clause 3.4 [*Determinations*] to agree or determine these matters.

## 10. Contract Price and Payment

- 10.1  
The Contract Price
- (a) the Contract Price shall be agreed and be subject to adjustments in accordance with the Contract;
- (b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract except GST, and the Contract Price shall not be adjusted for any of these Costs except as stated in Sub-Clause 9.3 [*Adjustments for Changes in Legislation*];
- 10.2  
Advance Payment
- The Employer shall not make any advance payment for mobilisation of equipment or any reason whatsoever.
- 10.3  
Application for Interim Payment Certificates
- The Contractor shall submit a Statement in four copies to the Engineer after the end of each month, in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.18 [*Progress Reports*].
- The Statement shall include the following items, as applicable, in the sequence listed:
- a) the Contract Price of the Works executed and the Contractor's Documents produced up to the end of the month (including 'Variations but excluding items described in sub-paragraphs (b) to (f) below);
- b) any amounts to be added and deducted for changes in legislation and changes in Cost, in accordance with Sub-Clause 9.3 [*Adjustments for Changes in Legislation*];
- c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in the Appendix to Bid to the total of the above amounts;
- d) any amounts to be deducted towards repayments of advances in accordance with Sub-Clause 10.2 [*Advance Payment*];
- e) any other additions or deductions which may have become due under the Contract or otherwise, including those under Sub-Clause 16.1 [*Contractor's Claims*] and Clause 2.39 [*Settlement of Disputes & Arbitration*] of Special Conditions of Contract; and
- f) the deduction of amounts certified in all previous Payment Certificates.
- 10.4  
Schedule of Payments
- Refer clause 2.32 [*Bills and Payment Schedules*] of Special Conditions of Contract.

10.5  
Issue of Interim  
Payment Certificates

No amount will be certified or paid until the Employer has received and approved the Performance Security. Thereafter, the Engineer shall, within 10 Days after receiving a Statement and supporting documents, issue to the Employer an Interim Payment Certificate, which shall state the amount, which the Engineer fairly determines to be due, with supporting particulars.

However, prior to issuing the Taking-Over Certificate for the Works, the Engineer shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated in the Appendix to Bid. In this event, the Engineer shall give notice to the Contractor accordingly.

An Interim Payment Certificate shall not be withheld for any other reason, although:

- a) if any thing supplied or work done by the Contractor is not in accordance with the Contract, the Cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or
- b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer, the value of this work or obligation may be withheld until the work or obligation has been performed.

The Engineer may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Engineer's acceptance, approval, consent or satisfaction.

10.6  
Payment

The Employer shall pay to the Contractor:

- a) the amount certified in each Interim Payment Certificate within 45 Days after the Engineer receives the Statement and supporting documents; and
- b) the amount certified in the Final Payment Certificate within 56 Days after the Employer receives this Payment Certificate.

Payment of the amount due in Indian Rupees shall be made into the bank account, nominated by the Contractor.

10.7  
Delayed Payment

Deleted

10.8 Retention Money/  
Security Deposit

Retention Money shall be deducted from each running bill @ 5% subject to a maximum accumulation of 5% of contract price.

Retention Money shall be refunded within 14 days from the date of payment of final bill.

If a taking over Certificate issued for a Section or part of the works, a portion of the Retention Money corresponding to value of the work taken over shall be certified and paid.



- 10.9  
Statement at Completion
- Within 28 Days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Engineer/Engineer-in-charge four copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 10.3 [*Application for Interim Payment Certificates*], showing:
- a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
  - b) any further sums which the Contractor considers to be due, and
  - c) an estimate of any other amounts, which the Contractor considers, will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.
- The Engineer/Engineer-in-charge shall then certify in accordance with Sub-Clause 10.5 [*Issue of Interim Payment Certificates*].
- 10.10  
Application for Final Payment Certificate
- Within 56 Days after receiving the Performance Certificate, the Contractor shall Submit, to the Engineer/Engineer-in-charge, six copies of a draft Final Statement with supporting documents showing in detail in a form approved by the Engineer/Engineer-in-charge:
- (a) the value of all work done in accordance with the Contract, and
  - (b) any further sums which the Contractor considers to be due to him under the *Contract or otherwise*.
- If the Engineer/Engineer-in-charge disagrees with or *cannot verify any part of the* draft Final Statement, the Contractor shall submit such further information as the Engineer/Engineer-in-charge may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer/Engineer-in-charge the Final Statement as agreed. This agreed Statement is referred to in these Conditions as the "Final Statement".
- However if, following discussions between the Engineer/Engineer-in-charge and the Contractor and any changes to the draft Final Statement which are agreed, it becomes evident that a dispute exists, the Engineer/Engineer-in-charge shall deliver (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft Final Statement. Thereafter, if the dispute is finally resolved, the Contractor shall then prepare and submit to the Engineer/Engineer-in-charge a Final Statement.
- 10.11  
Discharge
- When submitting the Final Statement, the Contractor shall submit a written discharge, which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.
- 10.12  
Issue of Final Payment Certificate
- Within 28 Days after receiving the Final Statement and written discharge in accordance with Sub-Clause 10.10 [*Application for Final Payment Certificate*]and Sub-Clause 10.11 [*Discharge*], the Engineer/Engineer-in-charge shall issue, the Final Payment Certificate which shall state:
- (a) the amount which is finally due, and

- (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled, the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer, as the case- may be.

If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 10.10 [*Application for Final Payment Certificate*]and Sub-Clause 10.11 [*Discharge*], the Engineer/Engineer-in-charge shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 28 Days, the Engineer/Engineer-in-charge shall issue the Final Payment Certificate for such amount as he fairly determines to be due.

10.13

Cessation of Employer's Liability

The Employer shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

- (a) in the Final Statement and also
- (b) except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 10.9 [*Statement at Completion*].

However, this Sub-Clause shall not limit the Employer's liability under his indemnification obligations, or the Employer's liability in any case of fraud, deliberates default or reckless misconduct by the Employer.

10.14

Currencies of Payment

Refer Sub-Clause 9.2[*Payment in Applicable Currencies*) of General Conditions o Contract and Clause 2.35[*Indian Contract Act*] of Special Conditions of Contract.

## 11. Termination by Employer

11.1

Notice to Correct

If the Contractor fails to carry out any obligation under the Contract, the Engineer may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

11.2

Termination by Employer

The Employer shall be entitled to terminate the Contract if the Contractor:

- (a) fails to comply with Sub-Clause 4.2 [*Performance Security*] or with a notice under Sub-Clause 11.1 [*Notice to Correct*],
- (b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,
- (c) without reasonable excuse fails:
  - (i) to proceed with the Works in accordance with Clause 6 [*Commencement, Delays and Suspension*], or
  - (ii) to comply with a notice issued within 28 Days after receiving it,
- (d) subcontracts the whole of the Works or assigns the Contract without the required agreement,
- (e) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or

carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or

- (f) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:
  - (i) for doing or forbearing to do any action in relation to the Contract, or
  - (ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract,

or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f). However lawful inducements and rewards to Contractor's Personnel shall not entitle termination.

In any of these events or circumstances, the Employer may, upon giving 14 Days notice to the Contractor terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (e) or (f), the Employer may by notice terminate the Contract immediately.

The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.

The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Engineer. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

After termination, the Employer may complete the Works and/or arrange for any other entities to do so. The Employer and these entities may then use any Goods, Contractor's Documents and other design documents made on behalf of the Contractor.

The Employer shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Employer, these items may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

11.3 Valuation at Date of Termination As soon as practicable after a notice of termination under Sub-Clause 11.2 [*Termination by Employer*] has taken effect, the Engineer shall proceed in accordance with Sub-Clause 3.4 [*Determinations*] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

11.4 Payment after Termination After a notice of termination under Sub-Clause 11.2 [*Termination by Employer*] has taken effect, the Employer may:

- (a) proceed in accordance with Sub-Clause 2.4 [Employer's Claims],
- (b) withhold further payments to the Contractor until the Costs of execution, completion and remedying of any defects, damages for delay in completion (if any), and all other Costs incurred by the Employer, have been established, and/or

- (c) recover from the Contractor any losses and damages incurred by the Employer and any extra Costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 11.3 [*Valuation at Date of Termination*]. After recovering any such losses, damages and extra Costs, the Employer shall pay any balance to the Contractor.

11.5  
Employer's Entitlement  
to Termination

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 14 Days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security. The Employer shall not terminate the Contract under this Sub-Clause in order to execute the Works himself or to arrange for the Works to be executed by another Contractor.

After this termination, the Contractor shall proceed in accordance with Sub-Clause 12 [*Cessation of Work and Removal of Contractor's Equipment*] and shall be paid in accordance with Sub-Clause 15.6 [*Optional Termination, Payment and Release*].

12.

Cessation of Work and  
Removal of  
Contractor's Equipment

After a notice of termination under Sub-Clause 11.5 [*Employer's Entitlement to Termination*] or Sub-Clause 15.6 [*Optional Termination, Payment and Release*] has taken effect, the Contractor shall promptly:

- (a) cease all further work, except for such work as may have been instructed by the Engineer for the protection of life or property or for the safety of the Works,
- (b) hand over Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
- (c) remove all other Goods from the Site, except as necessary for safety, and leave the Site.

13. Risk and Responsibility

13.1  
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.

The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims; damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is 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 (2) the matters for which liability may be excluded from Insurance cover, as described in sub-paragraphs (c)(i), (ii) and (iii) of Sub-Clause 14.3 [*Insurance Against Injury to Persons and Damage to Property*].

13.2  
Contractor's Care of the  
Works

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 7 [*Taking Over of the Works*]) for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Employer.

After responsibility has accordingly passed to the Employer, the Contractor shall take responsibility for the care of any work, which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding Work has been completed.

If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 13.3 [*Defined Risks*], the Contractor shall rectify the loss or damage at the Contractor's risk and Cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage, which occurs after a Taking Over Certificate, has been issued and which arose from a previous event for which the Contractor was liable.

13.3  
Defined Risks

The risks referred to in Sub-Clause 13.4 [*Consequences of Defined Risks*] below are:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- (c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel and other employees of the Contractor and Sub-contractors,
- (d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,
- (e) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,
- (f) natural catastrophes such as earthquake, tsunami, hurricane, typhoon or volcanic activity.

13.4  
Consequences of Defined Risks

If and to the extent that any of the risks listed in Sub-Clause 13.3 [*Defined Risks*] above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*]to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4 [*Extension of Time for Completion*], and
- (b) payment of any such Cost, which shall be, included in the Contract Price in the case of sub-paragraph(f) of Sub-Clause 13.3 [*Defined Risks*], reasonable profit on the Cost shall also be included.

After receiving this further notice, the Engineer shall proceed in accordance with Sub- Clause 3.4 [*Determinations*]to agree or determine these matters.

13.5  
Intellectual and Industrial Rights

In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 Days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

- (a) an unavoidable result of the Contractor's compliance with the Contract, or
- (b) a result of any Works being used by the Employer:
  - (i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
  - (ii) in conjunction with any thing not supplied-by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its Cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration, which may arise from it. The other Party shall, at the request and Cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission, which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, Litigation or arbitration upon being requested to do so by such other Party.

13.6

Limitation of Liability Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any Contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Sub-Clause 13.1 [*Indemnities*].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.17 [*Site Facilities*], Sub-Clause 13.1 [*Indemnities*] and Sub-Clause 13.5 [*Intellectual and Industrial Property Rights*], shall not exceed Accepted Contract Amount.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

## 14. Insurance

### 14.1

#### General Requirements for Insurances

The Contractor shall be responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The Contractor shall, within the respective periods stated in the Appendix to Bid (calculated from the Commencement Date), submit to the Employer:

- (a) evidence that the insurances described in this Clause have been effected, and
- (b) copies of the policies for the insurances described in Sub-Clause 14.2 [*Insurance for Contractor's Equipment*] and Sub-Clause 14.3 [*Insurance against Injury to Persons and Damage to Property*].

When each premium is paid, the Contractor shall submit evidence of payment to the Employer.

The Contractor shall comply with the conditions stipulated in each of the insurance policies. The Contractor shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

The Contractor shall not make any material alteration to the terms of any insurance without the prior approval of the Employer. If the Contractor makes (or attempts to make) any alteration, the same shall be informed to the Employer in advance.

If the Contractor fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the Employer may at its option and without prejudice to any other right or remedy effect insurance for the relevant coverage and pay the premiums due. The Contractor shall pay the amount of these premiums to the Employer, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor, under the other terms of the Contract or otherwise. Any amounts not

insured or not recovered from the insurer shall be borne by the Contractor, in accordance with these obligations; liabilities or responsibilities. However, if the Contractor fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the Employer neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the Contractor. Payments shall be subject to Sub-Clause 2.4 [*Employer's Claims*] or Sub-Clause 16.1 [*Contractor's Claims*], as applicable.

14.2  
Insurance for  
Contractor's Equipment

The Contractor shall insure the Plant, Materials and Contractor's Documents for not less than the full reinstatement Cost including the Costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under subparagraph (a) of Sub-Clause 14.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.

The Contractor shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations.

The Contractor shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment. The assurance

- (a) shall cover all loss and damage from any cause not listed in Sub-Clause 13.3 [Defined Risks],
- (b) may however exclude loss of, damage to, and reinstatement of Goods while they are not in the Country.

14.3  
Insurance against Injury  
to Persons and Damage  
to Property

The Contractor shall insure against each Party liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 14.2 [*Insurance for Contractor's Equipment*] or to any person (except persons insured under Sub-Clause 14.4 [*Insurance for Contractor's Personnel*]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

The insurances specified in this Sub-Clause:

- (a) shall be effected and maintained by the Contractor as insuring Party,
- (b) shall be extended to cover liability for all loss and damage to the Employers property {except things Insured under Sub-Clause 14.2 [*Insurance for Contractor's Equipment*] } arising out of the Contractor's performance of the Contract, and
- (c) may however exclude liability to the extent that it arises from:
  - (i) the Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,
  - (ii) damage which is an unavoidable result of the Contractor's obligations to



execute the Works and remedy any defects, and

(iii) a cause listed in Sub-Clause 13.3 [*Defined Risks*], except to the extent that cover is available at commercially reasonable terms.

14.4  
Insurance for  
Contractor's Personnel

The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer and the Engineer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Sub-contractor's employees, the insurance may be effected by the Sub-contractor, but the Contractor shall be responsible for compliance with this Clause.

In respect of any persons employed by any Sub-contractor, the Contractor's obligations to insure these persons under this sub-clause shall be satisfied if the Sub-contractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy, but the Contractor shall require such Sub-contractor to produce before the Employer such policy of insurance and the receipt for the payment of current premium.

Notwithstanding what is stated in the above clauses, all the floating crafts including dredgers deployed in the operation should be insured under Marine Hull Policy and covered for various Port risks including pollution and wreck removal by a P & I Club which is a member of an International Group of P & I Club. However, in the case of Indian Flag Vessel (s) including Indian Flag Dredger(s), which are covered by Indian/National Insurance Company for wreck removal and by P&I Club for third party liabilities, the insurance requirement as detailed above will not be mandatory.

15. Force Majeure

15.1  
Definition of Force  
Majeure

In this Clause, "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, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, terrorism, revolution, insurrection, military or usurped power,

or civil war,

- (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel and other employees of the Contractor and Sub-contractors,
- (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, tsunami, hurricane, typhoon or volcanic activity.

15.2  
Notice of Force  
Majeure

If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 Days after the Party became aware, (or should have become aware), of the relevant event or circumstance constituting Force Majeure.

The Party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

15.3  
Duty to Minimise  
Delay

Each Party shall at all times use all reasonable endeavours to minimise any delay in the performance of the Contract as a result of Force Majeure.

A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

15.4  
Consequences of  
Force Majeure

If the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 15.2 [*Notice of Force Majeure*], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 16.1 [*Contractor's Claims*] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 6.4 [*Extension of Time for Completion*], and
- (b) if the event or circumstance is of the kind described in sub paragraphs (i) to (v) of Sub-Clause 15.1 [*Definition of Force Majeure*] and, in the case of sub paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.4 [*Determinations*] to agree or determine these matters.

15.5  
Force Majeure  
Affecting Subcontractor

If any Sub-contractor is entitled under any Contract or agreement relating to the Works to relief from Force Majeure on terms additional to or broader than those specified in this Clause, such additional or broader Force Majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

15.6  
Optional Termination,  
Payment and Release

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 Days by reason of Force Majeure of which notice has been given under Sub-Clause 15.2 [*Notice of Force Majeure*], or for multiple periods which total more than 140 Days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 Days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 12 [*Cessation of Work and Removal of Contractor's Equipment*].

Upon such termination, the Engineer shall determine the value of the work done and issue a Payment Certificate which shall include:

- (a) the amounts payable for any work carried out for which a price is stated in the Contract;
- (b) the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, and the Contractor shall place the same at the Employer's disposal;
- (c) any other Cost or liability which in the circumstances was reasonably incurred by the Contractor in the expectation of completing the Works; and
- (d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's Works in his country (or to any other destination at no greater Cost).

15.7  
Release from  
Performance under the  
Law

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfill its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 15.6[Optional Termination, Payment and Release]if the Contract had been terminated under Sub-Clause 15.6 [*Optional Termination, Payment and Release*].

16. Contractor's Claims

16.1  
Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable as and not later than 28 Days after the Contractor became aware; or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 Days, the

Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer may; after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

Within 42 Days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. if the event or circumstance giving rise to the claim has a continuing effect:

- (a) this fully detailed claim shall be considered as interim;
- (b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and
- (c) the Contractor shall send a final claim within 28 Days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.

Within 42 Days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer and approved by the Contractor, the Engineer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.

Each Payment Certificate shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim, as he has been able to substantiate.

The Engineer shall proceed in accordance with Sub-Clause 3.4 [*Determinations*] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 6.4 [*Extension of Time for Completion*], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause, which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure

has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

Refer Clause 2.39 [*Settlement of Disputes & Arbitration*] of Special Conditions of Contract.

17. Property in  
Excavated Materials

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found during excavation / dredging shall be placed under the care and authority of the Employer.

18. Drawings &  
Designs

- a) General details of the Works are shown on the Drawings accompanying this Bid 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 more sets are required by the Contractor he will have to make his own arrangement at his Cost.
- (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 Works.
- (c) The complete sets of tracing on linen or 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 Made" Drawings. The Drawings shall be fully dimensioned, of an approved size and with the

standard litho black or as approved by the Engineer.

19. Contract Supersedes Previous Documents      The Contractor shall have no right to any increase in the rates in the Schedule of Quantities nor any other right whatsoever by reason of any representative explanation or Statement or alleged representative explanation or Statement made or by reason of any information promise or guarantee given or alleged to have been given to him by any person (whether in the employment of the Employer or not) before the date of the Contract embodies the whole arrangements between the parties with reference to the Contract hereby constituted and all previous, correspondence/ negotiation/ representations/ explanations/ Statements/ promises or guarantee whether oral or written shall be excluded.
20. Bribes and Commission      Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the Contractor or his or their behalf to any officer, servant, representative or agent of the Engineer or to any person on his behalf in relation to the obtaining or to be execution of this or any other Contract with the Employer shall in addition to any criminal liability which he may incur subject the Contractor to the cancellation of this and all other Contracts with the Employer and also to the payment of any loss or damage resulting from any such cancellation, and the Employer shall be entitled to deduct the amounts so payable from any money otherwise due to the Contractor under this or any other Contract. Any question or disputes as to the commission of any offence under the present clause shall be settled by the Engineer in such a manner and on such evidence or information as he shall think fit and consider sufficient and his decision shall be final and conclusive.
21. Idle Time      Refer 2.14[*Traffic*] of Special Conditions of Contract.
22. Goods & Services Tax (GST)      GST shall be paid extra along with running account bill at the rate prescribed by the Government from time to time on production of the relevant documentary evidence.
23. Security Clearance      The bids received from any tenderer may be summarily rejected on National Security consideration without any intimation thereof to the tenderer.

**APPENDIX TO BID (1 of 2)**

| <b>Item</b>                     | <b>Sub-<br/>Clause</b> | <b>Data</b>                                                                                                                                                                                                                                                                         |
|---------------------------------|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Employer's Name and Address     | 1.1.2.2                | Board of Trustees of Cochin Port Trust                                                                                                                                                                                                                                              |
| Contractor's Name and Address   | 1.1.2.3                | (To be indicated after award of work)                                                                                                                                                                                                                                               |
| Engineer's Name and Address     | 1.1.2.4                | THE CHIEF ENGINEER,<br>COCHIN PORT TRUST                                                                                                                                                                                                                                            |
| Time of Completion of the Work  | 6.2                    | 6 months from the date of commencement.                                                                                                                                                                                                                                             |
| Defects liability               | 8                      | (Not applicable)                                                                                                                                                                                                                                                                    |
| Electronic Transmission Systems | 1.3                    | E-mail/Fax                                                                                                                                                                                                                                                                          |
| Governing Law                   | 1.4                    | Law of India                                                                                                                                                                                                                                                                        |
| Ruling Language                 | 1.4                    | English                                                                                                                                                                                                                                                                             |
| Language for Communication      | 1.4                    | English                                                                                                                                                                                                                                                                             |
| Time for Access to the Site     | 2.1                    | As detailed in the Letter of Acceptance                                                                                                                                                                                                                                             |
| Amount of Performance Security  | 4.2                    | 10% of Accepted Contract Amount (in Indian Rupees), through an irrevocable Bank Guarantee, enforceable and encashable at Kochi, drawn from any Nationalised Bank / Scheduled Bank in India which has net worth not less than Rs.100 crores and which is acceptable to the Employer. |
| Normal Working Hours            | 5.5                    | 24 Hrs. / Day x 7 Days/ week                                                                                                                                                                                                                                                        |
| Liquidated damages              | 6.2                    | As per clause 2.31 [ <i>Liquidated damages for delay in completion</i> ]of the Special Conditions of Contract.                                                                                                                                                                      |

**APPENDIX TO BID (2 of 2)**

| <b>Item</b>                                   | <b>Sub-<br/>Clause</b> | <b>Data</b>                              |
|-----------------------------------------------|------------------------|------------------------------------------|
| Total interest bearing Advance payment        | 10.2                   | Nil                                      |
| Number and Timing of the Installments         | 10.2                   | As requested by the Contractor           |
| Minimum amount of Interim Payment Certificate | 10.5                   | Not Applicable                           |
| Percentage of Security Deposit                | 10.8                   | 5% of value of each Running Account Bill |
| Limit of Security Deposit                     | 10.8                   | 10% of Accepted Contract Amount          |
| Currency of payment                           | 9.2                    | In Indian Rupees                         |
| Periods for submission of Insurance:          |                        |                                          |
| a) evidence of insurance                      | 14.1                   | 60 Days of date of LOA                   |
| b) relevant policies                          | 14.1                   | 60 Days of date of LOA                   |



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## V. TECHNICAL SPECIFICATIONS

### 1.0 PROJECT AND SITE INFORMATION

#### 1.1 Location

1.1.1 Cochin Port is one of the 12 Major Ports in India. It is an all weather port located in the State of Kerala on the west coast of India ( $9^{\circ} 58' N$ ,  $76^{\circ} 16' E$ ) within the Cochin lagoon, which has natural protection from the sea by the headlands of Fort Cochin and Vypeen. The entrance to the Port is through the sea outlet between the peninsular headland of Vypeen and Fort Cochin, popularly known as the 'Cochin Gut'.

1.1.2 The present Approach Channel comprises of an Outer Channel, Entrance Channel, LNG basin, ICTT Basin and two Inner Channels; the Ernakulum Channel and Mattancherry Channel.

#### 1.2 Project Area

The project of Construction of a dedicated Jetty for berthing Indian Coast Guard ships in the Mattancherry channel about 160m south of the Fort Kochi Passenger ferry jetty with approach to Fort Kochi is in progress as shown in Figure below. The Jetty face is close to the Mattancherry channel as shown in Figure 1 below.

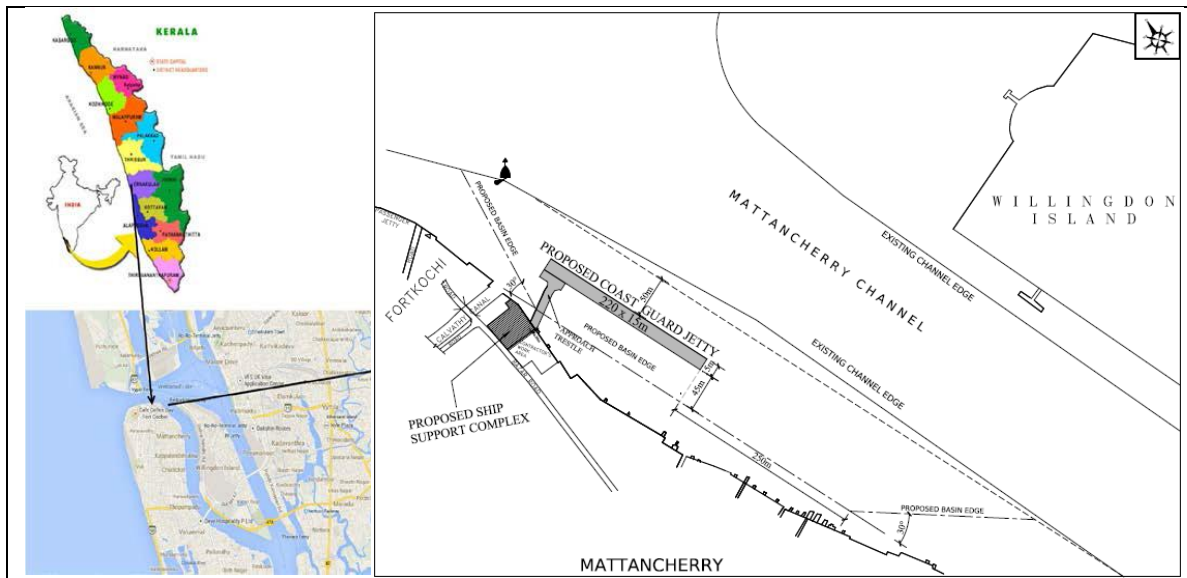


Figure 1 Project Location

## **2.0 PROJECT BACKGROUND**

The Cochin Port has already entrusted the construction of dedicated Jetty for berthing Indian Coast Guard ships in the Mattancherry channel. The foundation of the Jetty is already completed and superstructure is in progress. The present scope of this Contract is capital dredging of basin front and lee sides of the Jetty including maneuvering area up to a depth of (-)7.0m CD.

## **3.0 SITE INFORMATION**

### **3.1 General**

- 3.1.1 The whole coastal area is characterized by formation of the coastal land forms, which are made up of sand bars and barriers, sandy flats, mud flats and bars. The coastal plain is occupied by quaternary and recent sediments consisting essentially of sands, sandy clays, clays and carbonaceous clays.
- 3.1.2 The near shore area outside the Cochin Gut is relatively shallow reaching a water depth of 5 m at a distance of about 2 km from the shore and gradually deepening to 10 m at a distance of about 6 km outside the Gut. The sea bottom is mainly soft mud up to several meters deep in the near shore waters of Cochin.
- 3.1.3 The siltation in the Cochin Harbour area mainly takes place due to the deposition of the sediments from sea, which are stirred up during the wave action and brought inside the lagoon during the flood tide, whereas the siltation in the outer channel is mainly due to the phenomena of littoral drift.
- 3.1.4 The project of Construction of a dedicated Jetty for berthing Indian Coast Guard ships in the Mattancherry channel about 160m south of the Fort Kochi Passenger ferry jetty with approach to Fort Kochi is in progress. The Jetty face is close to the Mattancherry channel

### **3.2 Analysis Report on Side Scan Sonar Studies**

No Side Scan studies have been conducted. The bidder may be permitted to conduct detailed studies if the Bidder wish to do so at bidder's cost with prior permission of the Employer.

### **3.3 Geo-technical Investigations- Bore Hole Data**

The available Geo-technical investigation details of the project area are given at *Appendix-I* to the bid document.

### **3.4 Bathymetry and Seabed Features**

- 3.4.1 The seabed slopes gently in the offshore region and is about 1 in 500 to 600. The coast experiences the littoral drift as anywhere else but there is a phenomenon of formation of the mud banks. The mud banks are not stationary and have a tendency to move in the coastal region.

- 3.4.2 Bar formation at the entry of the port is a natural phenomenon and it takes place during the southwest monsoon season. Hence, annual dredging is to be resorted to in order to keep the necessary depths and widths in the navigational channel. Littoral drift takes place during both the SW & NE monsoons as a result of which the channel experiences siltation. This effect gets compounded when material from the mud banks find its way to the entrance channel during the flood tides.
- 3.4.3 The indicative quantities of dredging work involved are calculated based on the Hydrographic Survey conducted by the Kerala State Hydrographic Survey Wing as on 04-06-2020 given at **Appendix-II**.
- 3.4.4 Bidder, if he so desires is free to conduct Hydrographic Survey at his own cost with prior permission of the Employer.

### 3.5 **Meteorological Data**

#### 3.5.1 **Wind**

- 3.5.1.1 The wind speed and wind direction is determined by the season and by the daily temperature differences between land and sea. The predominant wind direction during the SW monsoon period ie, from June to September, is west to South-West and the effect of land breeze is not dominant during this period.
- 3.5.1.2 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.
- 3.5.1.3 The maximum wind speed observed was of the order of 112 kmph from WSW direction.
- 3.5.1.4 The details of wind data is shown in Figure-1 below.

| Month     | Observed Wind    |           | % time speed exceeded 20 KMPH | Predominant Direction |
|-----------|------------------|-----------|-------------------------------|-----------------------|
|           | Maximum Velocity |           |                               |                       |
|           | KMPH             | Direction |                               |                       |
| January   | 58               | SSE       | 10                            | W                     |
| February  | 53               | N         | 20                            | W                     |
| March     | 80               | SSW       | 26                            | W                     |
| April     | 88               | SSW       | 23                            | W                     |
| May       | 112              | WSW       | 23                            | W                     |
| June      | 86               | WNW       | 13                            | W                     |
| July      | 93               | SW        | 13                            | NW                    |
| August    | 93               | NNW       | 16                            | NW                    |
| September | 77               | WNW       | 15                            | NW                    |
| October   | 67               | NNW       | 6                             | W                     |
| November  | 69               | WNW       | 5                             | W                     |
| December  | 64               | SSE       | 3                             | W                     |

Figure-1 Wind Data

### 3.5.2 Cyclonic Storms and Depressions

Cochin lies beyond the cyclone belt and therefore the risk of cyclone is negligible.

### 3.5.3 Air Temperature

Temperature at Cochin varies from about 23° to 32.5° C. There are not much distinct seasonal variations in the temperature, which is more or less uniform throughout the year. However, highest temperatures tend to occur in the months of March to May. The low temperature occurs during December and January.

### 3.5.4 Relative Humidity

The humidity is high throughout the year. From June to September, during monsoon, the humidity ranges from 95 to 100%. From October to January it comes down to 50 to 70%. During summer months of February to May average humidity is about 60%.

### 3.5.5 Rainfall

The maximum rainfall usually occurs during the SW monsoon period ie, from June to September. The annual rainfall in the region varies between 2500 to 3500 mm.

### 3.5.6 Visibility

The visibility in the dredging area is excellent, except for few days during monsoon.

## 3.6 Oceanographic Information

### 3.6.1 Waves

#### 3.6.1.1 Deep-water Waves

The wave climate is governed by the South West monsoon when wave action can be strong with prevailing wave direction from North-West to South-West. Deep water (15m depth) wave observation in the past indicate the significant wave heights of 4m, 2m and 1m at water depths of 10m, 5m and 2m respectively, the predominant wave direction being West.

3.6.1.2 Wave action inside the harbour is insignificant because of narrow entrance between Vypeen Gut and Fort Cochin and the configuration of the land. Generally calm conditions prevail in the harbour basin throughout the year except during the times of extreme wind action.

3.6.1.3 Wave Rose diagram (Period and Height) near Cochin Port is presented in Figure – 2 below..

#### 3.6.2 Tides

Cochin experiences semi diurnal tides. The tidal levels as per Naval Hydrographic Chart No. 2004.

|                               |   |         |
|-------------------------------|---|---------|
| Highest High Water Level      | : | +1.20   |
| 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  |



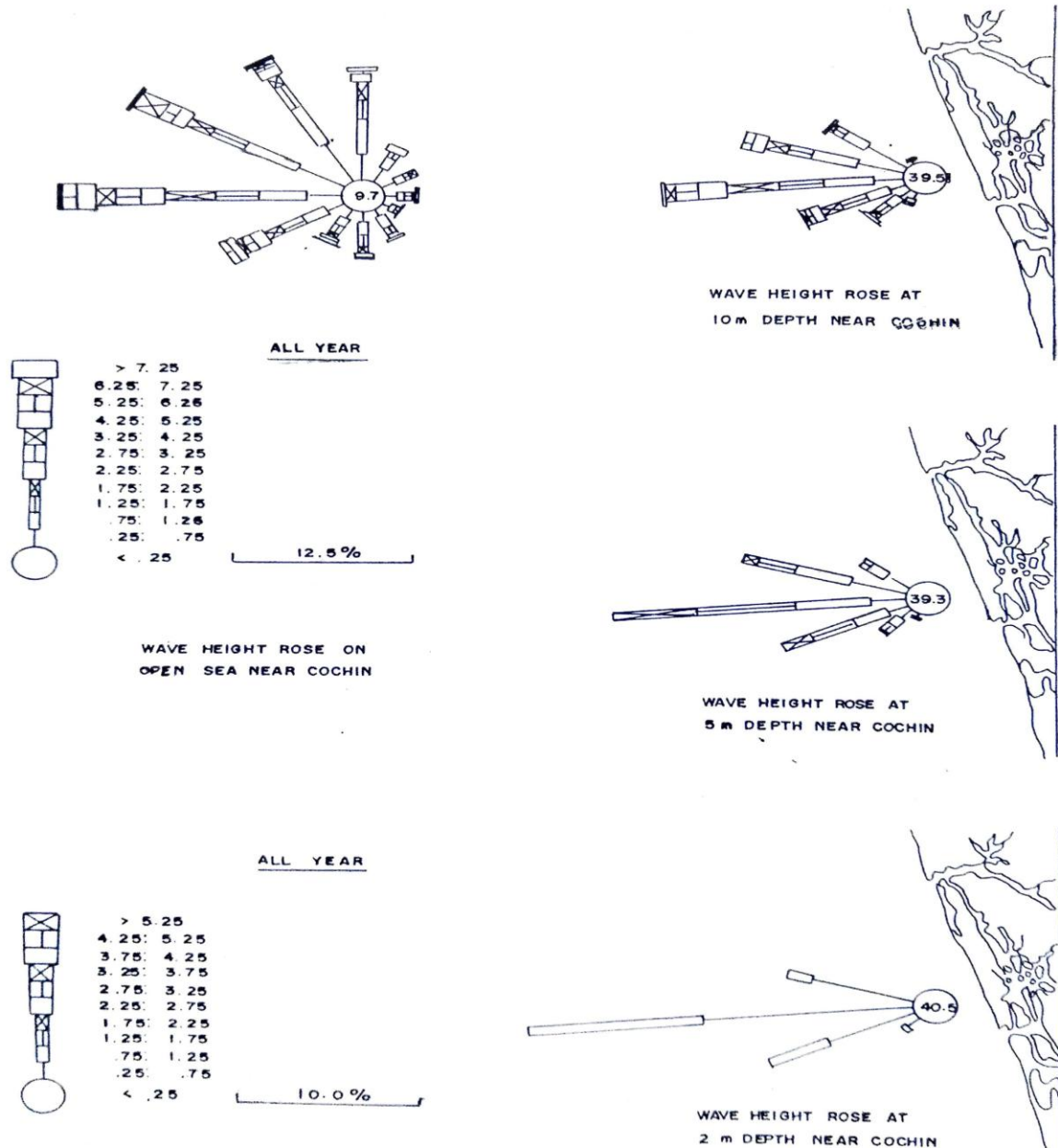


Figure – 2 Wave Rose Diagram

### 3.6.3 Currents

3.6.3.1 The currents along the coast of Cochin consists of tide, wave and wind induced components.

3.6.3.2 The tidal flow inside harbour basin, towards south bifurcates and flows around Willingdon Island giving rise to maximum current velocities both in Ernakulum and Mattancherry channels but their magnitude is different at different locations inside harbour. In the shallow natural channels on the northern side, velocities are low. While velocities during dry season follow a definite pattern, monsoon brings in large amount of fresh water and this gives rise to highly stratified conditions in the navigation

channels. The distinct saline wedge which intrudes into channel was shown to exhibit sharp reversal of velocities. As can be expected, peak velocities occur at the Cochin Gut. As per observations, the maximum current velocities at the Cochin Gut during the non-monsoon periods are of the order of 3 knots, which could increase to as high as 5.5 knots during the monsoon periods. Inside the harbour the current velocities are low, of the order of 0.5 knots only, with directions varying at different locations. Maximum flood velocities during monsoon were observed at the bottom due to density currents.

#### **4.0 SCHEDULING OF WORK**

##### **4.1 General**

Before commencement of dredging, the dredging plan will be prepared by the Contractor in consultation with the Deputy Conservator and Chief Engineer of the Port and the dredging will be carried out as per this plan. It will be the sole responsibility of the contractor to plan the dredging programme so as to attain the widths and depths in the berth basin including turning circle and berth pocket as required in the scope of work. However, during the course of dredging due to requirement of shipping or for any other reasons if it is so required by the Dy. Conservator/Chief Engineer, the Contractor shall undertake dredging in any other area than previously planned, in the berth frontage as instructed and no claim of any sort shall be made for deviating from the original dredging plan.

##### **4.2 Chart Datum**

Port's Chart Datum is 0.582 m below Indian Mean Sea Level with reference to the tide gauge established for the purpose.

##### **4.3 Tolerance**

###### ***Vertical Tolerance***

No reduction in specified area and depth is permissible. However, Positive tolerance (increase in specified area & depth) is allowed subject to limitations specified in Clause 2.4[*Maximum Permissible Dredged Depth*] of Special Conditions of Contract. The dredge level in the Port Basin shall not exceed an upper tolerance of (+) 0 mm and a lower tolerance of (-) 300 mm, where (+) indicates a height above the specified design dredge level and (-) indicates a depth below the specified design dredge level.

###### ***Horizontal Tolerance***

Horizontal tolerances for dredging in the Port Basin shall be (-) 0 mm and (+) 2500 mm, where (-) indicates a deviation of the toe of the dredged slope (towards the basin) from the location specified in the contract drawings and (+) indicates a deviation of the toe of the dredged slope (away from the basin) from the location specified in the contract drawings

#### **4.4 Method of Measurement**

The method of measurement for Capital Dredging is detailed separately in Clause No 2.30 [*Bills and Payments Schedules*], of the Special Condition of Contract of this bid document.

#### **5.0 DISPOSAL TOLERANCES**

- 5.1 The Contractor shall ensure that no dredged soil is dumped outside the limits of lesser depth specified in the dumping grounds or the dumping area specified.
- 5.2 In case of dumping of dredged material by the Contractor at unauthorised places and times, such quantities so dumped and as assessed by the Engineer shall be removed by the Contractor at his cost and the same shall be dumped in the designated dumping ground. In addition, penal recovery shall be made based on the hopper volume of material unauthorizedly dumped, the rate applicable being 50% of the quoted Rate.
- 5.3 The Contractor shall mark the limits of the area(s) indicated with suitable buoys and shall carry out the dumping as per the instruction of the Engineer.

#### **6.0 SURVEYING**

##### **6.1 General**

- 6.1.1 Information to enable the Contractor to accurately define the boundaries of the dredging and dumping areas are supplied on the Drawings. It shall be the Contractor's responsibility to erect and maintain any visual or other marks at site required to accurately control the dredging and dumping operations.
- 6.1.2 The Contractor shall provide all labour, qualified hydrographic surveyor, materials, plant and equipment including sea worthy launch, position fixing equipments, etc. and arrange setting out works, taking of soundings, preparation of sounding charts, monitoring progress of surveying the areas of dredging for which the Employer's representative shall be available at any time.
- 6.1.3 Each survey shall be undertaken by a surveyor suitably experienced in hydrographic survey work engaged by the Contractor, whose "curriculum vitae" is acceptable to the Engineer in Charge.
- 6.1.4 Field measurement and collection of data shall be executed to a degree of accuracy in horizontal and vertical directions and processed to scale and to the full satisfaction of the Employer. Employer's Representative shall be present during any surveys or any connected activities on site.
- 6.1.5 It shall be the responsibility of the Contractor to obtain all licences, permits and permissions for the use of marine radios, walkie-talkies, radio positioning systems, satellite phones for the placing of onshore, offshore and underwater beacons and marker buoys, and for giving the proper statutory notices for all maritime operators. The costs of

such licences, permits and notices are to be borne by the Contractor, and shall be deemed to be covered in the rate quoted in the bid.

6.1.6 The Contractor shall be notified by the Dy. Conservator / Engineer in advance of commencing any survey work.

6.1.7 In the case of surveys, the Dy. Conservator shall be the final authority.

## 6.2 **SURVEY LAUNCH, ECHO SOUNDER AND DIFFERENTIAL GLOBAL POSITIONING SYSTEM (DGPS)**

### 6.2.1 **Survey Launch**

The survey launch employed for the work shall comply with the following requirements:

The Contractor shall provide, maintain and operate with a skilled and efficient crew to the satisfaction of the Deputy Conservator, an all weather sea worthy survey launch suitable for surveying and site investigation work including handling gear during the currency of the contract. The launch shall have the following requirements:

- (i) Shall be of steel/FRP hull construction with a draught of around one metre.
- (ii) It should have maximum speed of 10 knots with excellent control and Maneuverability at low speeds (1 to 2knots)
- (iii) It should have ample space to accommodate the survey and soil investigation equipment and shall provide day accommodation for three men of the Employer's staff, besides the normal crew and Contractor's own surveyors.
- (iv) The launch shall be fitted with VHF facilities and provide radio communications between all survey personnel.
- (v) Minimum deck space of 3.0m x 5.0m, equipped with safety gear as per Indian Mercantile Act shall be available.
- (vi) The launch shall have adequate power back up for continuous operation of the equipment.

### 6.2.2 **Echo Sounder**

6.2.2.1 Each hydrographic survey shall be carried out using DUAL FREQUENCY ECHO SOUNDER and HULL MOUNTED Transducer (the digitizer of an echo sounder "Thresholds" or "Sensitivity" determine part) Resonant Frequency 33/210KHz in dual frequency mode. Echo sounder shall be capable of taking sounding with accuracy within one percent (1%) of the depth in conjunction with position fixing using Real Time Differential GPS. Echo Sounder equipment shall be capable of logging data compactable with computers apart from the facility of producing echo chart. The Contractor shall provide, install and operate, the following survey equipment to the satisfaction of Dy. Conservator of the Port;

- (i) Transducer resonant frequency 33/210 KHz and Dual frequency echo sounder Operation in dual frequency mode capable of printing of depth (both high and low frequency) echo chart.

- (ii) Dual frequency echo sounder systems capable of store data in HYPACK software survey program as EC2 Records. These records contain the Device Number, the Time tag, and the High and Low frequency depths.

6.2.2.2 It shall not be permitted for any reason to use Echo Sounder for the post dredging survey at lower operational frequency than that has been used for the pre dredging survey. **The sounding chart shall be prepared based on cell average depth available from the sounding and also based on the Hypack software program originally designed for Cartographic selection.**

6.2.2.3 At the start of the each hydrographic survey, the DGPS is to be calibrated to the specified accuracy. To this effect, the Contractor shall establish a fixed point (or fixed points) with known co-ordinates such that the survey board can easily be positioned with the transducer of the echo sounder always in the same position relative to the calibration point.

### 6.2.3 **Differential Global Positioning System (DGPS)**

At the start of the each hydrographic survey, the DGPS will be calibrated to the specified accuracy.

#### 6.2.3.1 **Composition of DGPS**

The system shall consists of mobile station and Reference Station, receivers (one for each dredger and one for each survey launch), the requisite number of shore stations, interfaces, track plotters, data storage facilities and sufficient spares.

#### 6.2.3.2 **Installation and Testing**

The system shall be installed, tested and set to work for continuous operation during all dredging and survey operations. The system shall be fully operational, a minimum of 7 days before surveying operations commence including field calibration by using known/ established Port Survey stations.

Once operational, the system shall remain in continuous operation until the last Post dredging survey is completed and the last post dredging survey drawings have been signed jointly by the Contractor and the Deputy Conservator's Representatives

#### 6.2.3.3 **Failure of DGPS**

In case the DGPS fails or considered to be inaccurate by the Dy. Conservator, the Dy. Conservator may permit the use of an approved temporary back up system or may order that the affected works or part be carried out after the system is repaired to the required accuracy. No extension of time for completion shall be granted by the Engineer to the Contractor on account of such discontinuity in the works.

DGPS should have one hundred percent in built back up stand by equipment to cater for the failure of any individual components.

DGPS shall at all the times maintain a repeatable accuracy, for any point within the work site of plus or minus 1.0m in the horizontal plane.

#### **6.2.3.4 Giving Notice of any Irregularities**

The contractor shall inform the Deputy Conservator's Representative forthwith, of any breakdown irregularities or otherwise, affecting the positioning of his vessels or other equipment.

### **6.3 Existing Survey Station / Control Points**

6.3.1 Established survey station/ control points, exist in the area on land will be used for the survey. The Contractor will be permitted to use these established survey marks for triangulation surveys, Leveling surveys or for checking purpose under the following conditions:.

(i) That no station is damaged.

(ii) That any mark, flag or equipment required by the Contractor shall be placed adjacent to be directly above (if possible) the permanent mark in a position approved by the Hydrographic Surveyor.

6.3.2 The Contractor shall be responsible for establishing the true position and level of any mark, flag or equipment placed by him in relation to the permanent mark.

### **6.4 Setting out Works**

6.4.1 The setting out of boundaries and alignments of the basin under the contract shall be executed by the Contractor. All the surveys and connected activities shall be executed in the presence of Employer's Representative.

6.4.2 Setting out works shall be done by the Contractor on such dates as to permit timely commencement of the work. The Contractor shall be provided with detailed drawing sufficiently in advance by the Deputy Conservator for the setting out works.

6.4.3 The Contractor shall be responsible for the accuracy of the setting out.

## **7.0 HYDROGRAPHIC SURVEY**

7.1 Hydrographic Surveys shall be performed by using 200-210 & 33 KHz Echo-Sounder and DGPS both with an accuracy which ensures that the requirements of the contract are achieved. Echo chart record printing of both high and low frequency depths on same face of chart paper at a time in dual frequency mode.

7.2 The interfacing of the GPS and Echo sounder will be done by 'HYPACK-MAX' or equivalent standard software acceptable to Deputy Conservator/Engineer.

7.3 The survey vessel guided by the 'HYPACK-MAX' or equivalent standard software acceptable to the Deputy Conservator/Engineer will be taken along the sounding line and depth shall be continuously recorded by the help of Echo sounder. The depths recorded

and their position will be continuously interfaced and stored in the memory of computer software for post processing and computation of volumes / dredging quantities.

7.4 These surveys shall only be carried out if weather and sea conditions, condition of equipment and methods of execution and interpretation are, in the opinion of the Deputy Conservator, satisfactory for this purpose.

7.5 The position, whether determined by the electronic or optical methods, should be regularly checked by reference to onshore transit marks at some point along the survey line.

#### 7.6 **Calibration of Echo Sounder**

Echo Sounder shall be checked and calibrated at least daily before and after use, by means of a bar or plates suspended at known distances below the water surface as per the procedure requirements of calibration. Checking shall be performed at the actual location of the survey and in the presence of the Contractor's and Port's Representative. Adjustments to recordings/readings taken shall be made accordingly. Records of bar or plate checks shall be retained at the start and end of the Echo Sounder record for the day of survey. The Echo Sounder shall maintain a repeatable accuracy of better than 10 cms.

7.6.1 A calibration procedure (Path Test) shall be integrated with sub systems prior to actual survey.

#### 7.7 **Accuracy of Surveys**

7.7.1 The Accuracy of Surveys in the horizontal plane, related to the relevant triangulations stations for the projects shall be within 3.0m

The accuracy of surveys in the vertical plane includes:

(i) The echo sounder, used shall maintain a repeatable accuracy of better than 10cm for measurement of distance between seabed and survey vessel waterline.

(ii) The registration of water levels by means of temporary tide gauges shall be within 5cm. The water level plane between the tide gauges and the survey location can be assumed horizontal.

7.7.2 The Employer's Representative may resolve to check echo soundings by means of other methods to measure water depths, such as sounding poles or lead lines. The Employer's Representatives may also order calibration checks of the equipment as and when considered necessary. The Contractor shall provide all manpower, boats and equipment that may be reasonably required for this verification, at no extra cost.

#### 7.8 **Sounding Survey Requirements**

7.8.1 Sounding shall be taken to the nearest decimetre and reduced to the Port's Chart Datum, which is 0.582 m below Indian Mean Sea Level.

- 7.8.2 The Echo Sounder Transducer shall be located as close as practicable to the centre line of the survey vessel.
- 7.8.3 The chart (paper) speed and the associated speed of the survey vessel during a sounding traverse shall be calibrated to ensure that 100m of bottom traverse are represented by at least 75mm of echo trace. Sensitivity (gain) controls shall be adjusted to the maximum level so that it produces a clear bottom echo trace.
- 7.8.4 The hydrographic survey software shall have capability to pickup minimum three soundings in a second in the sounding traverse and to produce the continuous record of the bed profile.
- 7.8.5 All values of the gain setting and adjustments thereto shall be noted on the echo chart for each traverse.
- 7.8.6 The automated hydrographic survey software system shall store the recorded depths in digitized format for subsequent automatic computer plotting. In this event fully annotated analogue (hard copy) records shall be maintained and furnished.
- 7.8.7 Prior approval of the Employer shall be obtained for the method of data acquisition and associated processing techniques and computations, proposed by the Contractor.
- 7.9 **Sounding Lines, Grid Lines and Grid Points**
- 7.9.1 Sounding lines are lines along which the soundings are taken.
- 7.9.2 Grid lines are lines perpendicular to the sounding lines.
- 7.9.3 Grid points are the points of intersection of sounding lines and grid lines, where soundings are to be taken for preparing the sounding charts.
- 7.9.4 The location of the sounding lines shall be fixed such that they are at an interval not more than 10m measured along the longitudinal directions of the basin. Grid lines shall be not more than 10m apart. A grid line shall be established along the design toe of each side slope and also near the wharf/jetty frontage. Thus, the grid points on the cross section shall be at, close to but not exceeding 10m interval. The Employer may at their discretion carry out survey much closer interval to ascertain any leftover pinnacles.
- 7.9.5 An echo trace shall be obtained along each of the sounding lines.
- 7.9.6 The horizontal position of soundings shall be obtained at intervals not exceeding 10m along a sounding line, and these locations shall be marked on the echo trace chart as fix marks. Fix marks shall be obtained where a sounding line crosses the toe and the top of dredged side slope, where practical. Intermediate soundings representing the shallowest depth in a length of not more than 10m shall be obtained by interpolation between fix marks.
- 7.9.7 The horizontal accuracy of each position fix shall be:
- + 3.0 m along the sounding line



+ 3.0 m perpendicular to the sounding line

7.9.8 Surveying along any sounding line, which deviates by more than the specified tolerances above shall be repeated to the extent necessary to ensure that all fixes along the sounding line remain within, specified tolerances. The repeated segment of the sounding line shall overlap that segment of the previous sounding line, which complies with the specified tolerances, by a minimum of 10m.

7.9.9 Where sounding areas abut a previously surveyed section, of the works, the sounding lines shall overlap the previously surveyed area by a minimum of 10m.

#### 7.10 **Verification Lines**

7.10.1 In the pre- and post-dredging surveys, 10 percent of all sounding lines are to be known as verification lines. Verification lines shall be representative of the whole of the area and of the entire duration of the sounding sessions. Verification lines are to be sounded twice, immediately following one another and preferably in opposite directions.

7.10.2 When the difference in vertical position at any common point along the two sea bed profiles resulting from each verification line exceeds +100 mm, then the soundings subsequent to the last successful verification shall be deemed unacceptable as pre- and post-dredging soundings. In such a case, the lower value of the two soundings shall be considered acceptable and accordingly corrections will be made to all soundings in the entire representative areas of the verification line. If the Contractor desires he can arrange another joint resurvey of the concerned area at his own cost.

7.10.3 The Employer's Representative may resort to check echo sounding by means of other methods to measure water depths, such as sounding poles or lead lines. The Contractor shall cooperate in this respect and supply any manpower and boats that may be reasonably required for this verification.

#### 7.11 **Digital Recording and Plotting**

7.11.1 Interpretation of echo rolls, reduction of sounded depths for tidal heights obtained from tide gauges, Corrections for squat and wave motions (to be made using appropriate observed data and /or compensating devices) shall be done to the satisfaction of the Hydrographic Surveyor. Each fix on the echo rolls shall be annotated on the track plot chart of the survey vessel, and interpreted data shall be plotted.

7.11.2 The design profile shall also be clearly marked on the echo sounding trace as well as on the hydrographic survey software. The design profile shall be the specified minimum bed level of the relevant section of works under survey.

#### 7.12 **Drawings/ Sounding Charts**

7.12.1 After each survey session, the Contractor's representatives shall immediately prepare **separate high frequency sounding chart and low frequency sounding chart drawings (with cell average readings)** on which the results of the survey shall be recorded, to a

scale of 1:2500 or as directed by the Dy. Conservator. **Separate sounding charts for High frequency 210 KHz and above soundings for Navigation and payment purpose and Low frequency 33 Khz soundings for silt and sedimentation studies shall be furnished to the Port.**

- 7.12.2 Further more, the charts shall incorporate all reference points and markers together with the location and nature of obstructions, structures and facilities. Particular items of interest shall also be indicated on the charts.
- 7.12.3 After verifying the results plotted on each drawing, Deputy Conservator's representatives, Contractor's representative shall put date and signature on each agreed drawing and submit these to the Deputy Conservator for his approval and these shall form the basis for processing the payment.
- 7.12.4 A sounding chart, which does not contain soundings of at least 95% of the total number of theoretical grid points as above, shall not be accepted. It is to be specifically noted that the remaining 5% grid points where readings are missing shall not be accumulated in one area. They shall be in a scattered manner. The allowance of 5% given shall not be construed that dredging can be avoided in 5% of the area to be dredged.
- 7.12.5 10 hard copies and 3 soft copies of every sounding chart (**final product in HYPLOT as per the "Sounding color settings"**) shall be submitted to Employer at no extra cost.

## **8.0 FIELD BOOKS**

All Field books (in specified formats and countersigned by the authorities who entered the measurements/readings/parameters, etc.), calculations, maps, original records of survey tracks, run plots, input output parameters, keypad entries, tide, etc. of all survey activities shall be kept in the office of the Hydrographic Surveyor and shall be available for the Employer's Representative to scrutiny and checking for the duration of the contract.

## **9.0 PRE-DREDGING SURVEYS**

- 9.1 For determination of the bed level, before commencing dredging operations, a joint survey of the bed is to be undertaken by the Contractor and the representative of the Employer. The services of an external survey agency may also be inducted by the Employer for the Pre-dredge surveys along with the representatives of the Employer and the Contractor.
- 9.2 All the dredging drawings shall be constructed on EVEREST or WGS84 in Universal Traverse Mercator (UTM)**projection or three parameter datum transformations work over a Local area.**
- 9.3 On completion of the survey, the Contractor shall prepare within 24 hours, survey charts and cross section showing the full results of the survey. On completion and agreement of the contents of the drawings, the Contractor, Deputy Conservator, Deputy Conservator's representatives and Representative of external agency engaged by the Employer for

witnessing and certifying the survey, shall sign the drawings, which shall form the basis for all the further measurement of the works undertaken in the course of the Contract.

## **10.0 INTERIM SURVEYS**

10.1 Interim joint surveys shall be carried out by the Contractor and the Deputy Conservator's representative, during the period of dredging works at fortnightly intervals. Soundings shall be taken under the same configuration and settings as used for pre-dredging surveys..

10.2 If it is not possible to take the soundings in the basin / very near to the berths using a **Dual Frequency echo-sounder of 33KHz / 210 KHz, arrangements shall be made to take** soundings in this area using sounding chain having lead weight varying from **2.5Kg to 10.0 Kg** as the case may be, depending on depth, with standard dimensions and to submit the charts by the Contractor, without any extra Cost to the department at the time of its completion. However, such soundings will be taken only for verification purpose and not for computing quantities for payment purpose

## **11.0 SLOPE SURVEY**

On completion of the development of the Basin, soundings of side slopes shall be taken at intervals not exceeding 30m longitudinally and not exceeding 5m on the cross section commencing from the edge of the channel (toe of slope) towards the bank for 100m or such smaller distance as decided by the Engineer.

## **12.0 DUMPING AREA SURVEY**

Prior to commencing the work on the Site, the Contractor shall carry out survey, including sounding (joint initial survey) of the dumping area. Intermittent bathymetry survey at quarterly intervals and survey on completion of the dumping shall be done by the Contractor, for ensuring that, the shallowing of the dumping area is within the specified limits.

## **13.0 POST-DREDGING SURVEY**

13.1 The post dredging survey equipment shall have the same configuration as used for Pre dredging survey.

13.2 On completion of all required dredging Works, a post dredging final hydrographic survey will be conducted jointly by the Contractor and the representative of the Employer on the same basis as specified for pre- dredging survey. The services of an external survey agency may also be inducted by the Employer for Post dredging surveys along with the representatives of the Employer and the Contractor.

13.3 On completion of the survey, the Contractor shall prepare, survey charts and cross sections showing the full results of the survey. All the data/raw data, fair charts/plotting sheets, survey report, positioning data, tidal data, echo-traces, computation worksheets, and analysed charts (both hard and soft copies) shall be submitted to the Employer.

13.4 On completion and agreement on the contents of the drawings and if the Deputy Conservator's Representatives had satisfied that the Works have been executed according to the Contract, the Contractor, the Deputy Conservator, Deputy Conservator's Representatives and Representative of external agency, in case survey conducted by external agency, shall sign the drawings, which then acquire the status of "Post dredging Survey".

#### **14.0 ADDITIONAL SURVEYS**

Additional surveys, upon instructions of the Engineer shall comprise of survey of areas where shoaling is expected or where artificial obstructions are suspected. Contractor shall carry out these surveys in presence of Deputy Conservator's representatives without any extra Cost to the Contract.

#### **15.0 SERVICES OF EXTERNAL AGENCY FOR SURVEY**

The services of the external survey agency, if found required, will be inducted by the Employer for the pre, interim and post dredge surveys along with the representative of the Employer and the Contractor. **The cost of engaging external survey agency shall be fully borne by the Employer. The decision on survey and survey associated issues by the third party/external survey certification agency, if engaged by the Employer, will be binding on Employer and Contractor.**

#### **16.0 COST OF SURVEY**

The cost of providing all survey equipment, consumables, spares etc. and carrying out all surveys including any additional surveys, setting out etc. and preparation of record drawings for the purpose of the execution of the Contract, are deemed to be included in the amount quoted in Schedule of Quantities. No additional payment will be payable to the Contractor in this regard.

#### **17.0 PLANT AND EQUIPMENT**

The Contractor shall arrange, mobilize and provide, all dredgers and other Plant, equipment and accessories for the execution of the dredging work, for carrying out survey and all connected works and demobilize the same on completion of the Work. No separate mobilisation and demobilisation charges will be paid to the Contractor for the Plant and equipment deployed by him for the satisfactory completion of the Work detailed in the Contract Work. The unit rate quoted for the Work will squarely and totally include all the charges to be paid to the Contractor by the Employer. ***The Contractor shall not change the type, number, size and make of dredgers indicated in the contract without written approval of the Engineer.*** If any dredger/craft goes out of order, the Contractor should arrange for replacement of the same with an equivalent capacity suitable dredger/craft. This shall not relieve Contractor from obligations under other clauses of Contract. No additional cost and time will be allowed.

## **18.0 NAVIGATION**

### **18.1 General**

Certain area within the proposed dredging area will be in use and it shall be kept free from the equipment related to the dredging operations till specifically authorized by the Engineer.

### **18.2 Channel Buoys and Navigational Lights**

The Employer shall, endeavour to provide and maintain all channel buoys and navigational lights. However, in case of any failure, dredger/craft is expected to navigate and dredge on its Electronic position fixing system and radar. No claim from the Contractor shall be entertained by the Employer for failures to provide and maintain channel buoys and navigational lights etc., nor shall the Contractor be entitled to any such compensation.

### **18.3 Minimum Interference with Navigation**

The number of ship movement in the channel is more than 200 per month. Throughout the Contract Period, the Contractor shall ensure that the Work is carried out without causing any obstruction to or interference with the normal traffic in the harbour. The Contractor's craft and personnel shall, at all times, adhere to the established rules of the Employer and comply with any direction in respect of navigation in the harbour that may be issued from time to time by the Employer. The Contractor shall also conform in every way, to the Employer's requirements in respect of marking, lighting and watching any structure, craft or equipment deployed in the execution of Contract. It is the sole responsibility of the Contractor to maintain the channel free for navigation during the entire period of Contract irrespective of the time/period in the year during which the dredging operations have to be carried out. Contractor shall provide all navigational equipment like Gyro-compass, Radar, Echo-sounder, VHF. etc. in good working condition. Also, refer Clause 2.14 [*Traffic*] of Special Conditions of Contract.

### **18.4 Navigation Requirement**

18.4.1 Dredging shall be organised so that dredger(s) and other Plant are so positioned as to allow the normal passage of vessels to the satisfaction of the Harbour Master of the Employer.

18.4.2 Navigation signals, lights and warning markers shall be provided and maintained by the Contractor on his floating plant, floating pipelines, anchors and any other equipment placed by the Contractor to the satisfaction of the Harbour Master of the Employer. Floating pipeline, if any, shall be controlled to ensure that it causes least obstruction to the movement of vessels.

18.4.3 The Contractor shall prior to the establishment of Plant on site notify the Harbour Master and the Engineer of his proposed programme and methods. The Contractor shall be

responsible for providing the Harbour Master and Engineer with details of any changes to the programme and methods approved by the Engineer.

**19.0 OIL SPILLAGE**

Oil spill response equipment shall be provided on the Site in sufficient quantity to cope with the maximum fuel load of the dredging equipment and associated Plant.

**20.0 DIVING**

Should any diving work be carried out during the Contract, this shall be in accordance with the rules and regulations of the Cochin Port Trust and Statutory Authorities. The Cost of this diving works will be borne by the Contractor.

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VI. SPECIAL CONDITIONS OF CONTRACT

1.0 GENERAL

- 1.1** 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.
- 1.2** 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.
- 1.3** 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.
- 1.4** Where it is mentioned in the Specifications that the Contractor shall perform certain Work or provide certain facilities, it is understood that the Contractor shall do so at his own Cost.
- 1.5** The materials, design and workmanship shall satisfy the relevant Indian Standard, the Specification and conditioned herein referred to. Where the Specifications stipulate requirement in addition to those contained in the Standard codes and Specifications, these additional requirements shall also be satisfied.

2.0 THE WORK

2.1 Scope of Work

The scope of work involves CAPITAL DREDGING for the new jetty for Indian Coast Guard at Fort Kochi , which includes, dredging of the Manoeuvring Area including the berth pocket between the existing Mattancherry Channel and the Jetty under construction and lee side of Jetty as shown in drawing by deploying suitable Trailing Suction Hopper Dredger (TSHD) / Cutter suction Dredger/ Bucket Dredger/ Grab Dredger, or suitable dredger for direct loading to hopper/ barge and disposing of dredged material at designated dumping ground in outer sea at a distance of about 20 km away from the dredging site.

2.2 Nature of Work

The works under the contract comprise dredging, conveying and disposing the dredged material at specified dumping areas as detailed in Clause 2.8 [*Disposal of Dredged Material*], by deploying suitable Dredger(s) of adequate capacity, and arranging survey works as stipulated and other related works as detailed elsewhere in the bid document.

2.2.1 Contract Period.

- 2.2.1.1 The contract period of dredging work shall be 6 months from the date of expiry of 30 days from the date of issue of Letter of Acceptance or date of actual commencement of work whichever is earlier.
- 2.2.1.2 In case of the bidder who has received the Letter of Intent, Contract Period of dredging work shall be from the date of expiry of 23 days from the date of issue of Letter of Acceptance or date of actual commencement of work whichever is earlier.
- 2.2.1.3 The Contractor shall commence the execution of the Work not later than the date of expiry of 30 days from the date of issue of Letter of Acceptance. In case of the bidder who has received the Letter of Intent, bidder shall commence the execution of the Work not later than the date of expiry of 23 days from the date of issue of Letter of Acceptance.

2.3 Scope of work and Area to be Dredged and Depth to be Achieved

- 2.3.1 The scope of work involves Capital Dredging for the ICG Jetty, which includes dredging of the Manoeuvring Area including the berth pocket between the existing Mattancherry Channel and the proposed Jetty and lee side of Jetty. The proposed area to be dredged for a depth of (-)7.0m CD is marked in the Layout drawing.
- 2.3.2 The availability of specified depth on completion of work shall be evidenced by the soundings taken on that date.

2.4 Maximum Permissible Dredged Depths

The maximum permissible dredged depth in the basin shall be 7.30m below Chart Datum. No payment will be made for over dredging beyond this depth.

2.5 Side Slopes

The work involves dredging for Dredging the basin in front of proposed ICG Jetty for providing depth of (-)7.0m CD. The Dredging shall also cover the adjacent areas for achieving side slopes within the specified limits.

The slope of the dredged Port Basin shall be as per slope stability analysis for the dredge area. In no case the dredge slope towards shore shall be steeper than 1:6 and 1:12 in other areas,

The soundings of the side slopes shall be taken for a width of 100m or such smaller distance as decided by the Deputy Conservator, for sides of the basin, beyond the boundary line of the area of the basin, in which the specified depth is to be achieved. The soundings of side slopes are to be taken at a longitudinal interval not exceeding 30m and on the cross section the intervals shall be not more than 5m. Soundings of the side slopes shall be taken on completion of the work.

2.6 Dredger(s) to be Deployed

- 2.6.1 Dredger(s) deployed for the Work should have adequate capacity to achieve the required depth in the basin as specified under clause 2.3 above.

- 2.6.2 The Contractor shall mobilize adequate number of dredgers of appropriate type and capacity for executing the work and achieving the specified depth.
- 2.6.3 Deployment of Water Injection Dredger for carrying out the Work is not allowed.
- 2.6.4 In case of breakdown of dredger(s)/ dredging equipment(s), alternate dredger(s)/ dredging equipment(s) has/have to be mobilized, without affecting the programme of Work and without any additional expenditure to the Port. The Contractor shall mobilize the alternate dredger(s) immediately, in case of breakdown without waiting for an instruction from department so as to comply with above requirement.

2.7 Dredging Programme

- 2.7.1 Before commencement of dredging, the dredging programme will be prepared by the Contractor in consultation with the Deputy Conservator and Engineer of the Port, matching with the Dredger deployment schedule submitted by the Contractor. It shall be ensured that the actual dredger deployment generally adhere to the Dredger deployment schedule contemplated at the time of the bid. However, the performance of the dredging shall be continuously monitored and in case the expected progress of Work is not achieved, the capacity of the dredgers shall be increased as directed by the Engineer, at no extra Cost. Notwithstanding the above, it will be the sole responsibility of the Contractor to plan the dredging programme, so as to achieve the depth in the basin/ channel as specified at 2.3 above.
- 2.7.2 No claim shall also be entertained by the Port on account of delay due to shipping movements, due to restriction by Indian Navy on account of firing exercise or for similar reasons.

2.8 Disposal of Dredged Material.

- 2.8.1 The dredged material shall be conveyed and disposed off in the specified dumping area as detailed hereunder.
- 2.8.2 The dredged material shall be conveyed and disposed off in the specified dumping area. Two dumping areas are one on south and the other on the north of approach channel is shown in Figure -3 below. These dumping areas are approximately 12.999 km located at $295^{\circ} 57' 16.8''$ and 11.797 km located at $236^{\circ} 24' 47.2''$ from No.7 and No.8 buoys respectively. The dredged material may be dumped predominantly at the south dumping area and north dumping area may be used only when there are hindrances for accessing the southern dumping area. The material shall be dumped only beyond the distances specified above and where water depth is 20 m or more, spreading evenly over an area having a diameter of 3 km, in such a way that the depth shall not be less than 19 m at any time.

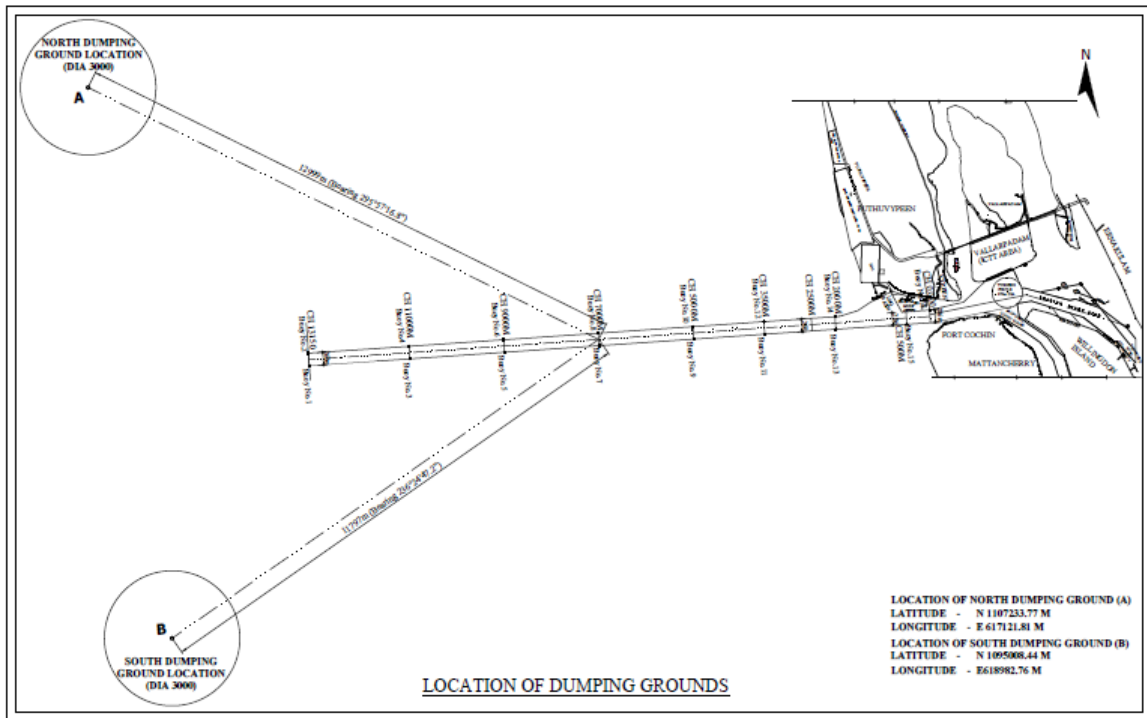


Figure -3 Proposed location for Dredge Spoil Disposal

- 2.8.3 Open dumping of dredged material from the Cutter Suction Dredger/ other dredgers into the channels are not permitted and it has to be conveyed and disposed off at the specified dumping area through barges. However, a proposal of the bidder to have specialized arrangement for avoiding of spreading of material into the channel, in such cases, Employer may permit the dumping at their discretion on satisfaction of the proposal thereof.
- 2.8.4 In case of dumping of dredged material by the Contractor at unauthorised places and times, such quantities so dumped and as assessed by the Engineer shall be removed by the Contractor at his cost and the same shall be dumped in the designated dumping ground. In addition, penal recovery shall be made based on the quantity assessed by the Employer.
- 2.8.5 The Contractor shall mark the limits of the area(s) indicated with suitable buoys and shall carry out the dumping as per the instruction of the Engineer.

2.9 Mobilisation and Demobilisation.

Maximum allowable period for mobilization of dredgers for commencement of work shall be 30 days from the date of issue of Letter of Acceptance. No separate mobilisation or demobilisation charges shall be payable for the deployment of dredgers and the cost of mobilisation and demobilisation charges of the dredgers deployed shall be included in the unit rate quoted for the Works.

2.10 Water, Fuel and Other Consumables for Dredger/Craft.

- 2.10.1 As there is scarcity of water, the Port will not be in a position to supply water to the dredgers always. In such cases, the Contractor will have to make his own arrangements at his Cost. However before doing so, clearance from the Dy. Conservator of the Port shall be obtained. The rates for supply of fresh water by the Port will be as per the Scale of Rates applicable from time to time.
- 2.10.2 Fuel, oils and other consumables required for the dredger(s) and other crafts shall be arranged by the Contractor at his own Cost.

2.11 Berthing Facilities for Maintenance

For maintenance, repairs, bunkering etc. of Contractor's floating crafts, the Employer will provide suitable berthing facilities subject to availability free of Cost to the Contractor as and when available/necessitated for a maximum period of 3 Days in a month per dredger. For the period exceeding 3 Days, if any per dredger, the berth charges shall be to the account of the Contractor at the prevailing rates in the Port. The Contractor can also avail the facility on cumulative basis subject to availability of berth. . If the number of dredgers deployed for the Work is more than two at a time, then the charges towards providing berthing facilities for the additional dredger(s) shall be to the account of the Contractor and shall be recovered from the Contractor's running account bills.

2.12 Vessel Related Charges

All vessel related charges including pilotage, tug, berth hire charges for dredgers will be to the account of the Employer during the period of this contract including the demobilisation period of two weeks except for the berth charges as per Clause 2.11 [*Berthing facilities for maintenance*] above. If the number of dredgers deployed for the Work is more than two at a time then the charges in respect of the additional dredger(s) shall be to the account of the Contractor and recovered from his running account bill as per the Cochin Port's Scale of Rates as amended from time to time.

2.13 Transit Ships

The Contractor shall submit to the Employer every week a statement showing the proposal for positioning and or mooring his Equipment and crafts during the ensuing week and finalise the programme of dredging in consultation with the Dy. Conservator. The programme of dredging thus finalized shall be binding on the Contractor.

2.14 Traffic

- 2.14.1 Cochin Port is an operational Port and it is to use the navigational channel for the vessels movement. When the dredging is undertaken in the basin, there will be normal vessel movement in the adjacent channel. Hence, care shall be taken to carryout the work without any hindrance to the above vessel movement during the progress of work. No claim towards any delay on this account shall be entertained by the Port.

2.14.2 The Contractor shall at all times observe and comply with all Laws including regulations that are relating to the navigation manoeuvring, and anchorage of his floating craft being used throughout the Works and shall get their craft within the Port limits or at the Work Site. The Contractor shall comply with the instructions given by the Employer in this regard. The Contractor shall carry out his Works strictly in such a manner, which would not obstruct or endanger the normal use of the channels, anchor areas, wharves and approaches thereto. The priority of navigation within Port limits will be always at discretion of the Employer. The Employer shall not be responsible for any inconvenience, losses or delays to the Contractor arising due to the priority not being given to their floating craft for moving about within Port limits as per decision of the Employer.

2.15 Maintenance / Special Repairs

No compensation will be paid to the Contractor by the Employer for the time utilized for routine maintenance and special repairs due to break down etc. of the dredgers and other crafts.

2.16 Loss or Damages to Port's Crafts/ Personnel.

The Contractor shall be responsible for any collision/damage to craft/Plant/equipment such as fenders, cranes, mooring buoys etc. of the Employer / Employer's Licensor and for any injury/accident to any of the Employer's Personnel deployed directly or indirectly for the Work and Contractor shall keep the Employer indemnified against all such damages and injuries/accidents. This is applicable for the personnel during the course of his duty from the time of boarding the boat provided by the Contractors for transit to the dredger(s) and till the time of disembarkation from the boat. If the Contractor fails to indemnify the Employer for any losses, the same shall be adjusted from any money or monies due to the Contractor under the terms of this Agreement.

2.17 Working Time

The Contractor is free to Work throughout Day and night and even on holidays.

2.18 Departmental Supervision

The expense towards Employer's supervision shall be borne by the Employer. Essential facilities like boarding and accommodation etc. on board the dredger and boat transport for Pilot shall be provided by the Contractor at his Cost. Port officers like Asst. Engineer, Asst.Exe. Engineer, Exe. Engineer, Superintending Engineer, Dy. Chief Engineer, Chief Engineer, Deputy Conservator, etc., may make occasional visit on board the dredger as desired by them. The Employer may also send on board Employer's Engineer(s)/Surveyor(s) for witnessing the dredging and dumping by the dredgers. Essential facilities like boarding, accommodation etc. shall be provided by the Contractor at no extra Cost for the above personnel of the Employer. Maximum two representatives of the Employer may stay on board at a time apart from the Pilot.

Third Party Certification Agency shall be engaged for monitoring/supervision of the dredging work and for conducting surveys.

2.19 Transportation Facilities

The Contractor shall provide a **boat** of 8 persons capacity with license for operating through port waters, at his own cost, exclusively for the departmental staff for supervision works, throughout the contract period. The supply shall commence not later than 15 days from the date of commencement of dredging. The boat shall be available round the clock on all days including Sundays and holidays. The boat and its operators shall have valid registration and insurance. All consumables and stores for the safe working of the boat and its operators as necessary should be provided by the contractor and nothing will be given by the Port for the running of the boat under this contract. The Contractor shall be solely responsible for the consequences arising out of any loss or damage/accident etc. caused to the boat on duty. If the Contractor fails to provide boat as above, the department will hire the same, the actual cost of which will be deducted from the Contractor's bills or an amount of Rs.10,000/- per day or part thereof shall be deducted from the Contractor's running bills.

2.20 Dredge Area clear of Natural/Artificial Under Water Obstructions.

2.20.1 To the best of the knowledge of the Employer, there are no major artificial or uncharted obstructions existing in the form of sunken wrecks of ships or Plants in the area to be dredged. However, if any obstructions like sunken buoys, barges or pontoons, small anchors, steel plates, angles, boulders, concrete pieces upto a size of 3m x 2m /2 tonnes are encountered these shall be removed by the Contractor at his own risk and no claim whatsoever on this account will be entertained by the Employer. The Contractor is not entitled to an extension of time or an adjustment of contract price for such obstructions to be removed or can be removed by the dredging equipment. The Employer's decision in this regard shall be final and binding on the Contractor.

2.20.2 During the dredging operation, any damage occurring to the Contractor's dredger, equipment and floating crafts due to artificial uncharted obstructions shall be covered and compensated through the Marine Insurance Policy and P & I cover only. However, the amount deductible service shall be reimbursed by the Employer.

2.21 Clearance of the Site on Completion

On completion of the Work, the Contractor shall clear away and remove from Port, the dredger, other Plants, materials etc. and Temporary Works of every kind. The Contractor shall also forthwith dispatch, raise and remove any Plant (floating or otherwise) belonging to him or to any person employed by him which might have sunk in the course of the Work or otherwise deal with the same as directed by the Engineer and until the same is raised and removed, the Contractor shall set on such buoys and display at night such lights, for the safe navigation as may be required by the Port Trust. In the event of the Contractor not carrying out the obligation imposed upon him by this Clause, the Engineer shall raise and remove the same (without prejudice to the right of the Employer to hold the contractor liable) and the Contractor shall pay to the Employer all costs incurred in connection therewith or the same shall be adjusted from any money (ies) due

to the Contractor under the terms of this Agreement. The fact that the sunken vessel/craft or plant is insured or has been declared a total loss, shall not absolve the Contractor from his obligation under this Clause, to raise or remove the same.

2.22 Contractor's Office and Personnel

2.22.1 The Contractor shall provide and maintain a suitable office at Kochi to which the Employer or its representatives may send communications and instructions. Contractor has to appoint a single person as the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract and for liaising with the Employer. He shall receive, on behalf of the Contractors, directions, instructions or other notices from the Employer. The Employer shall be at liberty to object and require the Contractor to remove forthwith from the Works any person including Dredger Commander, Engineer or Dredge Master provided by the

Contractor who, in the opinion of the Employer misconducts himself, or is incompetent or negligent in the proper performance of his duties or whose presence on board the dredger is otherwise considered by the Employer to be undesirable or impedes the progress of the Work and such person shall not be again allowed upon the Works without the consent of the Employer. Any person so removed shall be replaced with suitable person as soon as possible.

2.22.2 The Contractor's representative shall always be available at site. In case of temporary charge as per clause 4.3 of General Conditions of Contract (Contractor's Representative), this shall not be for more than 5 days continuously and such charge shall not be for more than a total of 14 days in a month.

2.22.3 The Contractor shall appoint an experienced Project Manager with minimum qualification as Graduate in Civil Engineering with 10 years experience/Dredge Master with 10 years experience, for monitoring and reporting on the day-to-day activities to the Engineer in charge.

2.22.4 If the Project Manager is not available at site for more than 3 days continuously or if he is not available for a total of 10 days in a month, an amount of Rupees One lakh per month will be deducted for such absence from the Running Account Bills/payment due to the contractor.

2.23 Accident or Injury to Contractor's Workmen

The Employer shall not be liable for, or in respect of, any damages or compensation payable at Law in respect or in consequence of any accident or injury to any workmen or other person in the employment of the Contractor or any Sub-contractor save and except an accident or injury resulting from any default of the Employer, his agents or servants and the Contractor shall indemnify and keep the Employer indemnified against all such damages and compensation and against all claims, demands, proceedings, Costs, charges and expenses whatsoever in respect thereof or in relation thereto.

2.24 Insurance against Accident to Workmen

The Contractor shall insure against such liability and shall continue such insurance during the whole of the time that any persons are employed by him on the Works. Provided that, in respect of any persons employed by any Sub-contractor, the Contractor's obligations to insure as aforesaid under this Sub-clause shall be satisfied if the Sub-contractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy, but the Contractor shall require such Sub-Contractor to produce before the Employer, such policy of insurance and the receipt for the payment of current premium.

2.25 Compliance with Statutes, Regulations etc.

The Contractor shall conform in all respects with the provisions of any such Statute, Ordinance or Law as aforesaid and the Regulations or Bye-laws of any local or other duly constituted authority which may be applicable to the Work or to any Temporary Work and with such rules and regulations of public bodies and Companies as aforesaid and shall keep the Employer indemnified against all penalties and liability of every kind for breach of any such Statute, Ordinance or Law, Regulation or Bye-laws.

All statutory liabilities towards Contractor's staff including but not limited to Contract Labour (Regulation and Abolition Act) 1970, Interstate Migrant Workmen Act 1979, Employees Provident Fund and Miscellaneous provisions Act 1952, The Minimum wages Act 1948, The payment of Wages Act, 1936, The Employees Compensation Act, 1923, Industrial Disputes Act 1947, Employees State Insurance, Workmen Compensation Act-1923, and their amendments etc shall be the prime responsibility of the Contractor.

2.26 Return of Labour

The Contractor shall deliver to the Employer or at the office of Employer a return in detail in such form and at such intervals as may be prescribed showing the staff on board the dredger and the names with age of the other staff from time-to-time employed by the Contractor ashore for the purpose of issuing dock entry permit.

2.27 Dredging Licence, Customs Clearance etc.

The Contractor should obtain necessary licences from the DG Shipping.

The Employer shall not be responsible to the Contractor where clearance is required by the customs for bringing the dredger and other Plants and materials and other things required. However, any documentary assistance to obtain such clearance will be rendered without any financial commitment.

2.28 Official Secrets

2.28.1 The Contract involves an obligation of secrecy and the Contractor, his agents, servants or Sub-contractor or their agents or servants shall observe and comply with the requirements of the Indian Official Secrets Act 1923, and the rules there under or any statutory

modifications or re-enactments thereof. Any breach of this clause shall constitute a breach of the Contract.

2.28.2 The Contractor shall not disclose to anybody the details of Drawings and sounding charts prepared by him and of the Work on which it is engaged without the approval of the Employer. No photographs of the Port area shall be taken or permitted by the Contractor to be taken by any of his employees without the approval of the competent authority and no such photographs shall be published, or otherwise circulated without the approval of the Employer.

2.29 Daily Dredging Report (DDR)

2.29.1 Dredging is to be undertaken in accordance with the Drawings and as directed.

2.29.2 The Contractor shall supply to the Deputy Conservator/ Engineer, DDR signed jointly by the representatives of the Employer and the Contractor in duplicate along with a soft copy MS Excel format.

2.29.3 DDRs shall contain:

(i) track record of the dredger viz. position, time and the track and the location from where the dredger/barges took various loads.

(ii) Time of dumping and depth of water at dumping area.

2.29.4 The Contractor shall submit the DDR to the representative of the Engineer on the next Day in his office.

2.30 Bills & Payments Schedules.

2.30.1 The bill for payment shall be prepared based on the approved sounding charts and as per the Contract conditions. Bills shall be presented by the Contractor every month based on differential sounding alongwith detailed quantity calculations. Based on the agreed Pre-dredging soundings taken before commencing the work and the sounding taken for the month, the quantity of Capital Dredging achieved during the month shall be calculated. The bills presented by the Contractor not fulfilling the above conditions will be rejected. Payment for the qualified bill will be paid within 30 Days of presentation of the bill. Recoveries if any for the services rendered by the Employer will be made from the advance payment released to the Contractor. Any delay in release of the above advance shall not be considered as delayed payment attracting financial charges.

2.30.2 During the progress of capital dredging work, interim payment will be made on monthly basis for the actual quantity of capital dredging work done. The quantity shall be assessed on the basis of agreed pre-dredging sounding and last joint monthly sounding taken during the month, limited to the depth specified to be made available in the Basin on completion of the work. The rate payable for the interim payment shall be worked out based on the unit rate quoted for the item in the schedule of Quantities.

2.30.3 After attaining specified depth (-)7.0m CD, the work shall be treated as completed and will be taken over by the Employer. After taking over, maintenance of the achieved depth

will not be the responsibility of the Contractor. The removal of siltation during the execution of the work shall be the responsibility of the Contractor.

2.30.4 On the date of expiry of the Contract Period, the Contractor shall hand over to Employer the basin with the specified depth of (-)7.0m CD.

2.31 Liquidated Damages (LD) for Delay in Completion

2.31.1 In the event of failure by the Contractor to complete the execution of the work within the time stipulated in the contract, or within the period of extension if any granted by the Employer in terms thereof, the Contractor shall pay to the Employer as liquidated damages for delay in completing the work inclusive of Sundays and holidays a sum equal to 0.50% of total contract value per week or part thereof subject to maximum of 10% of the contract value. The Employer shall have the right to deduct this amount from any payment due or which may thereafter become due to the Contractor or from any amount lying with them or under their control. No alteration which may be made in the scope of the work or specification shall be a ground or an excuse for not completing the work within stipulated time not prevent the deductions of the said liquidated damages unless an extension of time for completing the work shall be allowed by the Employer in writing when ordering alterations. The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the works or from any other of his obligations and liabilities under this contract.

2.31.2 For levying LD, 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.

2.32 Insurance

The Contractor shall insure dredger and other supporting crafts / equipment deployed for the Work against normal marine risks. The dredger should also have Protection and Indemnity (P&I) or such cover, which shall include salvage of said dredger in case she is sunk within the Port limits and is required to be salvaged by the Employer. The Contractor should indemnify the Port of all losses, which may occur due to blockage of channel caused by damage to or sinking or due to any such happening to the dredger and other vessels deployed by the Contractor. He shall also indemnify the Employer for any claims against the Port or its officers arising out of any accident, failure or negligence on his part. The Employer shall not be liable for or in respect of any demand or compensation payable under Law or orders of court in respect of or in consequence of any accident, death or injury due to the above and the Contractor shall indemnify and keep the Employer indemnified against all such damages and compensation and against all claims, damages, proceedings, Costs, charges and expenses whatsoever in respect thereof and in relation thereto. Should the Employer have to pay any money in respect of such claims or demands as aforesaid, the amount so paid and the Cost incurred by the Employer shall be paid by the Contractor and the Contractor shall not be at liberty

to dispute or question the right of the Employer to make such payments notwithstanding, the same may have been paid without the consent of the Contractor.

2.33 Care of Works

From the commencement to the completion of the Work, the Contractor shall take full responsibility for the care of dredger, its staff and his other employees in connection with the Work thereof and in case any damage, loss or injury shall happen to the Works or any part thereof or to any Temporary Work from any cause whatsoever, he shall at his own Cost repair and make good the same so that the Work shall be completed in good order and in conformity in every respect with requirement of the Contract. In the event of any such damage, loss or injury happening from any of the excepted risks, the Contractor shall if and to the extent required by the Engineer, make good the same as aforesaid and it will be to the account of the EMPLOYER.

2.34 Indian Contract Act

The Contract shall be governed by the Indian Contract Act and all payments due to the Contractor under the Contract will be made **IN INDIAN RUPEES ONLY**.

2.35 Performance Security and Security Deposit

2.35.1 The value of the performance Security shall be 10% of Accepted Contract Amount and shall be valid upto 30 days beyond the contract period.

2.35.2 The Performance Security and Security Deposit shall be released after 30 Days of expiry of the Contract period subject to the conditions regarding Performance Security and Security Deposit as stated in sub clause 4.2 of General Conditions of Contract [Performance Security].

2.35.3 In case Dredging firm do not own the Dredger and plan to execute the capital dredging works by other modes of arranging the Dredgers either fully or partially by wet leasing, hire etc. the above firm has to pay additional performance guarantee of 5% in addition to the performance guarantee indicated above which will be returned without interest after satisfactory completion of dredging work, in case the firm gets the contract.

2.36 Advance Payment

2.36.1 The Employer shall not make any advance payment for mobilisation of equipment or on any reason whatsoever.

2.37 Sub-letting of Contract

2.37.1 The Contractor shall not sub-let any portion of the Contract without the prior written approval of the Engineer. The Contractor shall be responsible for all or any of the acts of commission or omission of Sub-contractor who may carry out any Work or supply any material in connection with the Contract whether such Sub-contractor is selected by the Engineer or by the Contractor.

2.37.2 The Contractor shall make good any loss or damage suffered by the EMPLOYER due to any default, neglect or failure on the part of such Sub-contractor in relation to such Work or material.

2.38 Settlement of Dispute and Arbitration

2.38.1 General

2.38.1.1 Except where otherwise provided in the Contract, all questions and disputes relating to the meaning of the Specifications, Design, Drawings and Instructions hereinbefore 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 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.

2.38.1.2 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.

2.38.1.3 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.1 Crore 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.

2.38.2 Arbitration

- 2.38.2.1 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.
- 2.38.2.2 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.
- 2.38.2.3 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.
- 2.38.2.4 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 re-enactment thereof and the rules made there under and for the time being in force shall apply to the Arbitration Proceeding under this clause.
- 2.38.2.5 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.

2.38.2.6 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.

2.38.2.7 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 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.

2.38.3 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.

2.39 Governing Law

The Contract shall be interpreted and have effect in accordance with the Law of India and no suit or other proceedings relating to this Contract shall be filed or taken by the Contactor in any court of law except in the court of competent jurisdiction in Kochi.

2.40 Safety, Security and Protection of the Environment

The Contractor shall, throughout the Contract period,

- a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Work (so far as the same is completed or occupied by the Employer) in orderly state appropriated to the avoidance of danger to such persons.
- b) and take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise, or other causes arising as a consequence to his method of operation.

2.41 Reporting Accidents

The Contractor shall report to the Employer / Dy. Conservator details of any accidents 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 available means.

2.42 Sample Collection from Dredgers.

Samples of the mixture in the hopper if required by the Engineer are to be collected and handed over in suitable plastic containers by the Contractor at his Cost for the purpose of testing. Sample shall be collected in the presence of Engineer's representative. If the Contractor fails to collect samples and hand over, a lump sum amount will be recovered from the Contractor and the same amount will be decided by the Engineer. The decision of Engineer in this regard shall be final and binding.

2.43 Failure of Contractor

2.43.1 If the Contractor abandons the Contract or fail to commence the Work (without valid reasons acceptable to the Port) or suspends progress of Work for long duration (5 Days) before initially achieving the stipulated depth in the basin, the Employer may after giving 7 Days notice in writing to the Contractor, carry out the remaining Work in full or part as deemed necessary at the Cost and risk of the Contractor.

2.43.2 If the Contractor suspends the work unilaterally without any valid reason acceptable to the Port, penalty at the rate of Rs.50,000 per day, for the first five days and Rs.1,00,000/day for the next seven days will be recovered from the Contractor . If the suspension period (non working days) exceeds 30 days, the contract is liable to be rescinded.

2.44 Duties of the Engineer/ Deputy Conservator (DC)'s Representative

The Engineer DC's Representative is a person appointed by the Engineer/DC. The Representative is responsible to the Engineer / DC and shall carryout such duties and exercise such authority as may be delegated to the Representative by the Engineer / DC.

2.45 Engineer / Deputy Conservator (DC)'s Authority to Delegate

The Engineer/ DC may from time to time delegate to the Representative any of the duties and authorities vested in the Engineer/ DC and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing. Any communication given by the Representative to the Contractor in accordance with such delegation shall have the same effect provided that:

- (a) any failure of the Representative to disapprove any Work, materials or Plant shall not prejudice the authority of the Engineer/ DC to disapprove such Work, materials or Plant and to give instructions for the rectification thereof;
- (b) if the Contractor questions any communication of the Representative, he may refer the matter to the Engineer/ DC who shall confirm, reverse or vary the contents of such communication

2.46 Deployment of Staff by the Engineer / Deputy Conservator (DC)

The Engineer / Deputy Conservator shall deploy any number of persons in carrying out duties. Such persons have the authority to carry out their duties, acceptance of materials, verifications of Drawings, checking the surveys, quantities of dredging, checking the

locations of disposals of dredged material, plant or workmanship as being in accordance with the Contract, and any instructions given by any of them to the Contractor for those purposes shall be deemed to have been given by the Engineer /DC's Representative on behalf of the Engineer./ DC.

2.47 Variation Exceeding +/- 30%:

If on certified completion of the whole of the works, it shall be found that a reduction or increase greater than 30 per cent of the sum named in the Letter of Acceptance results from:

- a) The Aggregate effect of all variation orders; and
- b) All adjustments upon measurement of estimated quantities set out in the Schedule of Quantities, but not from any other cause the amount of the Contract Price shall be adjusted by such sum as may be agreed between the Contractor and the Employer or failing agreement, fixed by the Employer having regard to all material, and relevant factors, including the Contractor's site and general overhead costs of the Contract.

2.48 Additions and Alterations

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.

2.49 ESI and EPF Act

The Contractor 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.

3.0 THE SITE

3.1 General Site Information.

Refer Clause No.3.0 [*SITE INFORMATION*] of Technical Specification

4.0 SURVEYS AND LEVELS TO BE AGREED

4.1 Before the Works of any part thereof begun, the Contractor's Representative and the Employer's Representative shall together survey and take levels of the Site of the Works both above and below water level / Chart Datum level, and agree all particulars on which the measurements of the Works are to be based. Such particulars shall be plotted by the Contractor and after agreement, the Drawings shall be signed by the Contractor/ Contractor's Representative, Deputy Conservator's Representatives and Representative of external agency, if any.

4.2 All fortnightly surveys charts shall also be plotted by the Contractor and after Agreement, the Drawings shall be signed by the Contractor/ Contractor's Representative, Deputy Conservator's Representatives and Representative of external agency, if any.

4.3 Failing such surveys and agreements being prepared and/or signed by the Contractor, the surveys and sounding charts of the Employer shall be final and binding on the Contractor.

4.4 The Contractor shall be entirely responsible for the horizontal and vertical alignment, the levels and correctness of every part of the Work and shall rectify any errors or imperfection therein. Such rectification shall be carried out by the Contractor, at his own Cost.

5.0 SETTING OUT THE WORKS

5.1 The Employer shall furnish the relevant existing grid points with bench Mark with reference to Cochin Port Chart Datum. It shall be Contractor's responsibility to set out the necessary central points on land and to set out alignment. The Contractor shall have in his employee's efficient survey team for this purpose and the accuracy of such setting out Works shall be Contractor's sole responsibility.

5.2 Before beginning the Work the Contractor shall work out the control points on ground which are pre requisite for carrying out hydrographic surveys, accurately, with suitable markers as approved by the Deputy Conservator's Representative. All these points and markings shall be checked and accepted by the Contractor's Representative before starting the Work.

5.3 The Contractor shall also provide necessary equipment, labour and other facilities for proper checking of triangulation / bench mark stations and inspection of the points during the survey and dredging operations at no Cost to the Employer.

5.4 The Contractor shall give the Employer not less than 24 hours notice in writing of his intention the set out or give levels for any part of the Works so that arrangements may be made for checking the Work.

5.5 Work shall be suspended for such times as necessary for checking lines and levels on any part of the Works.

5.6 The Contractor shall at his own expense provide all assistance, which the Employer may require for checking the setting out.

6.0 ORDER OF WORKS

The order in which the Works are to be carried out shall be to the approval of the Engineer and shall be such as to suit the detailed method of dredging adopted by the Contractor as well as the CPM schedule and shall be carried out without affecting the Port operation.

7.0 CO-ORDINATION AND INSPECTION OF WORKS

The Co-ordination and inspection of the day-to-day Work under the Contract shall be the responsibility of the Engineer. The written instructions regarding any particular Work will be normally passed by the Engineer. A Work/Site order book will be maintained by the Contractor for each sector in which aforesaid written instructions will be entered. These will be signed by the Contractor or his authorized representative by way of acknowledgment within 12 hours. A copy such instruction shall be forwarded to the Engineer time to time.

8.0 WORK IN MONSOON

The execution of the Work entails working in the monsoon period. The Contractor must maintain sufficient equipment, Plant and labour force as may be required for the Work and execute the dredging & render assistance for surveying according to the prescribed schedule. It is preferred that all barges shall be self propelled and capable of carrying out the work safely during monsoon. Allowing dump barges will be conditional at the discretion of the Dy. Conservator of the Port. No claims of what so over shall be acceptable in case of denial of permission for any dump barges. All the crafts engaged for the work shall be sea worthy and shall have appropriate Licenses and facilities as statutorily required for the respective craft. No special rate will be considered for carrying out the work in monsoon.

9.0 CONTRACTOR'S WORKING AREA

9.1 The area as available with the Employer shall be allowed to the Contractor as Work Area.

9.2 The Contractor shall submit to the Engineer for his approval, Drawings and proposals for any Temporary Works such as, storage yard, office, store, false work and temporary

platforms, workshop, etc. which he intend to construct for the execution of the Contract and no such Work shall be constructed before obtaining the written approval of the Engineer.

- 9.3** The Contractor shall obtain permission for any Temporary Work and would ensure that during execution of Works, the statutory requirements of the concerned authorities such as Cochin Port Trust/ Cochin Corporation/Indian Navy/ Local Police, etc. would be compiled with.
- 9.4** Not less than one month before the date when the Contractor intends to start erecting any part of the Temporary Works and staging required for carrying out the Works he shall furnish to the Engineer complete Drawings of that part of the Temporary Works and staging. The Contractor shall at the same time, if so required by the Engineer, furnish design calculations in respect of such Temporary Works. The Contractor shall also furnish to the Engineer Drawings showing the method proposed for the erection of the various parts of the Work.
- 9.5** The furnishing to the Engineer any design for any Temporary Works and staging shall not relieve the Contractor of any liability or obligation under the Contract in respect of such Temporary Works and staging. All Temporary Works shall remain the property of the Contractor.

10.0 OPERATIONS OF THE EMPLOYER AND OTHERS

- 10.1** The ordinary business and Works of the Employer and others as carried out on and in the vicinity of the Site will be continued during the dredging and surveying, completion of the Works and the execution of the Contract shall be conducted in such a way as to avoid interference with traffic of every kind by land and by water and with any other Works in progress in the vicinity.
- 10.2** The Contractor's attention is drawn to the fact that other Contractors employed by the Employer and other entity authorized by the Employer may be working in the vicinity.
- 10.3** The Contractor shall where so directed by the Engineer be required to Work to other Contractor's Drawings where so ever Drawings for Work not included in this Contract are related to particular details of the Works.
- 10.4** The Contractor shall from time to time as the Engineer may direct, provide attendance on the other Contractors and carry out minor Works in connection with such Contracts. The Cost of provision of such attendance and Work as may be so required will be mutually agreed before commencement of attendance/Work.

11.0 PORT TRUST RULES

- 11.1** 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 material be allowed to spill to the Harbour area.

11.2 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.

12.0 EXISTING SERVICES.

12.1 Drains, pipes, cables, overhead wires and similar services encountered in the course of the Work shall be guarded from injury by the Contractor at his own Cost so that may continue in full and uninterrupted use to the satisfaction of the owners thereof or otherwise occupy any part of the Site in a manner likely to hinder the operation of such services.

12.2 Should any damage be done by the Contractor to any mains pipes, cables or lines (whether above or below ground). Whether or not & shown on the Drawings the Contractor must make good or bear the Cost of making good the same without delay to the satisfaction of the Engineer and of the owners.

13.0 ENTRY ON PRIVATE OR OTHER PROPERTY

The Contractor shall not enter upon or commence any Work in or upon, across or through any land, building or place being private property until authorised in writing by the Engineer or other competent authority to do so.

14.0 NOTICE OF OPERATIONS

No important operations shall be commenced nor shall Work outside the usual working hours be carried out without the consent of the Engineer in writing or without full and complete notice also in writing being given to him.

15.0 SECURITY AND SAFETY

15.1 The Contractor shall comply with all regulations imposed by the Customs and Cochin Port Security Authorities in respect of the passage of Plant, Equipment, Vehicles, materials and personnel through Customs and Port barriers.

15.2 The Contractor shall take all possible precaution to prevent out breaks of fire on the Site and in all offices, stores, camps and other places and things connected therewith and especially with respect to the safe storage of petroleum products, explosives and all other dangerous hazardous goods. He shall comply with all rules, regulations and orders of any Statutory Authority and of the Engineer at no extra Cost to the Employer.

15.3 The Contractor shall obtain from the Employer details of any restricted areas in or around the Site and shall have prominently and clearly displayed for the information of his staff and work people notices defining any such restricted areas. Such notices shall be provided at his own expenses.

15.4 The Contractor will be required to take entry passes to the restricted area of Cochin Port for all personnel, labourers and vehicle. No claim whatsoever on this account will be entertained.

16.0 RETURNS AND DRAWINGS

All reports, statement, returns, diagrams, photographs or Drawings, etc. which the contractor is required to submit to the Engineer are unless otherwise directed, to be furnished in the triplicate.

17.0 POSSESSION PRIOR TO COMPLETION

The Engineer shall have the right to take possession of or use any completed or partially completed Work or part of the Work. Such possession or use shall not deem to be acceptance of any Work completion in accordance with the Contract Agreement. If such, prior possession or use by the Engineer delays the progress of Work, on equitable adjustment in the time of completion will be made and the Contract Agreement shall be deemed to be modified accordingly.

18.0 COMPLETION DOCUMENTS

For the purpose of provision of Clause No.10 [*Contract Price and Payment*] of the General Conditions of Contract, 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) Sounding charts and connected details.

19.0 DISPUTE IN MODE OF MEASUREMENT

In case of any dispute as to the mode of measurement not covered by the Contract to be adopted for any item of Work, mode or measurement as per relevant Indian Standard Specification (*Latest revision*) shall be followed.

20.0 INCOME TAX

Income Tax on the gross amount bill shall be deducted from the Contractor's bill as per Section 194 C of the Income Tax Act or as applicable from time to time.

~~~~~

**PROFORMA OF IRREVOCABLE BANK GUARANTEE FOR PERFORMANCE SECURITY**  
(To be submitted on Non-judicial Stamp Paper of appropriate value)

Ref:.....

Bank Guarantee No.....

Date.....

To

The Cochin Port Trust,  
W/Island,  
Cochin - 682009.

Dear Sirs,

In consideration of Board of Trustees of Port of Cochin (hereinafter referred to as the 'Employer' 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 successors, administrators, executors and assigns), a "CONTRACT" by issue of Employer's Letter of Acceptance 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 Performance Security Guarantee for the faithful performance of the entire Contract equivalent to....., to Employer.

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 Employer on demand any and all money payable by the Contractor for an amount not exceeding in aggregate the amount 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 Employer on the Bank shall be conclusive and binding notwithstanding any difference between Employer and CONTRACTOR or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of Employer and further agrees that the guarantee herein contained shall continue to be in endorseable till the Employer discharges its guarantee.

Employer shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee from time to extend the time for performance of the CONTRACT by CONTRACTOR. Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against Contractor, and to exercise the same at any time in any manner and



either to enforce or to forebear to enforce any covenants, contained or implied, in the CONTRACT between Employer and CONTRACTOR or any other course of remedy or security available to Employer. The Bank shall not be released of its obligations under these presents by any exercise by Employer of its liberty with reference to the matters aforesaid or any of them or by reason or any other acts of omission or commission on the part of Employer or any other indulgence shown by Employer or by any other matter or thing whatsoever which under Laws would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that Employer 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 Employer may have in relation to the CONTRACTOR's liabilities.

Notwithstanding anything contained herein above our liability under this guarantee is restricted to.....\*.....and it shall remain in force upto and including .....\*..... and shall be extended from time to time for such period, as may be instructed in writing by M/s .....on whose behalf this guarantee has been given.

Dated this..... day of ..... at

**WITNESSES**

(Signature) ..... (Signature).....

(Name)..... (Name) .....

Bank's Rubber Stamp

(Name) .....

(Name).....

(Official address) .....

(Designation with Bank Stamp)

+ Attorney as per Power of Attorney

No. ....

Dated.....

Notes:

\* This sum shall be 10% of the Accepted Contract Amount.

\*\* The date will be thirty (30 )days after the end of the contract period /extended contract period as specified in the Contract

+ In case of foreign Bank Guarantees, the same shall be routed through their corresponding bank operating in India.

**PROFORMA OF POWER- OF-ATTORNEY/LETTER OF AUTHORITY**  
(To be submitted on Non-judicial Stamp Paper of appropriate value)

To

The Chief Engineer,  
Cochin Port Trust,  
Cochin 682009.  
Kerala.  
India.

Dear Sir,

We.....  
.....do hereby  
confirm that Mr./Ms. /Messrs ..... (Name and Address) is  
/are authorized to represent us to bid, negotiate and conclude the agreement on our behalf with  
you against Bid No. ....

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

Yours faithfully,

Signature :

Name & Designation :

For & on behalf of :

Signature, name and seal of the certifying authority

**PROFORMA OF JOINT VENTURE/CONSORTIUM AGREEMENT**

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

This Joint Venture /Consortium Agreement is made and entered into on this ..... day of .....20.... by and between (i) M/s. ...*(Name of the firm to be filled in)*....., (ii) M/s.....*(Name of the firm to be filled in)*....., ....., primarily for the work under the Cochin Port Trust.

All the partners of the Joint Venture /Consortium hereinafter individually referred to as the parties and collectively as the ‘Joint Venture/Consortium’.

**1.0 Formation of Joint Venture/Consortium**

1.1. (i) M/s..... *(Name of the firm to be filled in)* is engaged in .....*(Details of the works undertaken by the party)*

(ii) M/s..... *(Name of the firm to be filled in)* is engaged in .....*(Details of the works undertaken by the party)*

.....

1.2. On behalf of Board of Trustees of Cochin Port Trust (hereinafter referred to as “Employer”), the Chief Engineer, Cochin Port Trust has invited bids from the experienced, resourceful and bonafide dredging firms with proven technical and financial capabilities of executing dredging of the manovering basin for the Dredging Project - “*Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port*” (herein after referred as “the project”).

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

NOW THEREFORE IT HAS BEEN AGREED TO BETWEEN THE PARTIES AS FOLLOWS

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

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

- 1.6. Notwithstanding the date of signature of this agreement, its effective date will be the date of submission of bid.
- 1.7. All costs incurred by the parties before the date of award of contract will be borne by the parties concerned. All costs in implementation of this Joint Venture/Consortium Agreement after award of contract till the expiry of this agreement will be borne by the parties as hereinafter provided.
- 1.8. The Joint Venture/Consortium will be dissolved and this agreement will cease to have effect on completion of this project, maintenance and fulfilment of all other conditions under the contract, upon receipt of payment of all amounts from the Employer and on settlement of accounts between the parties as hereinafter provided.
- 1.9. The contract, if awarded by the Employer, Letter of Acceptance shall be issued in the name of (...***Name of JV/Consortium to be filled in***.....) and the Contract shall be signed by legally authorised signatories of all the parties.
- 1.10. All the parties of the JV/Consortium shall be jointly and severally liable during the bidding process and the bid document shall be signed by legally authorised signatory of all the parties.
- 1.11. The financial contribution of each partner to the JV/Consortium operation shall be:
- (i) M/s..... (***Name of the partner to be filled in***) - .....
- (ii) M/s..... (***Name of the partner to be filled in***) - .....
- .....
- .....
- 1.12. All the parties of the JV/Consortium shall be jointly and severally liable for the execution of the project in accordance with the Contract terms, in the event of award of contract. The delineation of duties, responsibilities and scope of work shall be:
- a) The Lead Partner, shall provide suitable experienced personnel at site, for general planning, site management and equipment operations, during entire period of contract execution.
- b) (.....***Name of Partner to be filled in***.....) shall carry out the following works
- c) (.....***Name of Partner to be filled in***.....) shall carry out the following works
- 1.13. The parties hereto agreed that each of them shall duly and properly perform all the functions and all costs related to their respective works.
- 1.14. The parties hereto shall be at liberty to enter into liaison work/correspondence with statutory and local authorities as the circumstances warrant individually or collectively.
- 1.15. It is hereby agreed and undertaken that, all the parties are jointly and severally liable to the “Board” of Cochin Port Trust for the performance of the contract.
- 1.16. Notwithstanding demarcation or allotment of work between JV/Consortium partners, JV/Consortium each partner shall be liable for non performance of the whole contract irrespective of their demarcation or share of work.
- 1.16. The Lead Partner shall be authorised to act on behalf of the JV/Consortium.
- 1.17. All the correspondences between the Employer and the JV /Consortium shall be routed through the Lead Partner.
- 1.18. The Lead Partner is authorized: (a) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV /Consortium during the bidding process; and (b) in the event of a successful bid, to incur liabilities and

receive instructions for and on behalf of the partner(s) of the JV /Consortium and to carry out the entire execution of the contract including payment, exclusively through Lead Partner.

- 1.19. In the event of default of the Lead Partner, it shall be construed as default of the Bidder/Contractor; and Employer shall be entitled to take action under relevant clause(s) of the Department Bid Document and/or Conditions of Contract.
- 1.20. All the parties of the JV/Consortium shall be jointly and severally liable for due performance, recourse/sanctions within the joint venture in the event of default of any partner and arrangements for providing the required indemnities.

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

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

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

.....  
.....  
.....

Witness 1

Witness 2

**PROFORMA OF POWER- OF-ATTORNEY**  
**[As per Sub-clause No. 5.1.1.(i)(3) of Instruction to Bidders]**  
*(On Non-Judicial stamp paper of appropriate value)*

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

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

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

hereby jointly authorize and agree the Lead Partner, M/s (.....*Name of the lead partner to be filled in*.....), (a) to submit bid, negotiate and conclude contract and incur all liabilities therewith on behalf of the partner(s) of the JV /Consortium during the bidding process; and (b) in the event of a successful bid, to incur liabilities and receive instructions for and on behalf of the partner(s) of the JV /Consortium and to carry out the entire execution of the contract including payment for the work of “*Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port*” (Bid No.*T10/T-1934/2020-C*), exclusively through Lead Partner.

(i) Signature

Name

Designation seal

&

Common seal of the firm

(ii) Signature

Name

Designation seal

&

Common seal of the firm

.....

.....

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

**PROFORMA OF IRREVOCABLE BANK GUARANTEE FOR EARNEST  
MONEY DEPOSIT**

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

B.G. No..... dated .....

This Deed of Guarantee executed at .....by .....  
(Name of Bank) having its Head/Registered office at ..... (hereinafter referred to as “the Guarantor”) which expression shall unless it be repugnant to the subject or context thereof include its executors, administrators, successors and assigns;

**In favour of**

The Board of Trustees of Cochin Port Trust (hereinafter called “the EMPLOYER”), having its office at Willingdon Island, Cochin – 682 009, which expression shall unless it be repugnant to the subject or context thereof include its executors, administrators, successors and assigns;

Whereas Sri..... / M/s. .... /JV/Consortium of M/s....., M/s..... & M/s..... (Name of Bidder)..... (composition and legal status of the Bidder), (hereinafter called “the Bidder”), which expression shall unless it be repugnant to the subject or context thereof include its executors administrators, successors and assigns, has bid for the work of “*Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port*” (hereinafter referred to as “the Work”).

Whereas in terms of the Tender Call Notice (TCN) dated ..... (hereinafter referred to as “Bid Document”) the Bidder is required to furnish to the EMPLOYER an unconditional and irrevocable Bank Guarantee for an amount of Rs. .... (Rupees. .... only), as Earnest Money Deposit (EMD) and the Guarantor has at the request of the Bidder agreed to provide such Guarantee being these presents:

Now this deed witnesseth that in consideration of the premises, We, .....  
..... Bank hereby declare, undertake and agree as follows:

- a) We as primary obligor shall, without demur, pay to the EMPLOYER an amount not exceeding Rs. .... Million (Rupees. .... Million only), within 5 days of receipt of a written demand from the EMPLOYER stating that the EMD has been forfeited in terms of sub-clause 9.3 of the Instruction to Bidders of Bid Document. Any such demand made on us by the EMPLOYER shall be conclusive and absolute as regards the forfeiture of the EMD and the amount due and payable under this Guarantee.
- b) The above payment shall be made by us without any reference to the Bidder or any other person and irrespective of whether the claim of the EMPLOYER is disputed by the Bidder or not.

- c) This Guarantee shall remain in full force for a period of 180 days from (date)\*..... or for such extended period as may be mutually agreed between the EMPLOYER and the Bidder and shall continue to be enforceable till all amounts which are demanded by the EMPLOYER under this Guarantee are paid.
- d) In order to give full effect to this Guarantee, the EMPLOYER shall be entitled to treat the Guarantor as the principal debtor and the obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Bid Document or other documents or by extension of time of performance of any obligations by the Bidder or any postponement for any time of the powers exercisable by the EMPLOYER against the Bidder or forbear or enforce any of the terms and conditions relating to non-compliance of the Bid Document by the Bidder and we shall not be relieved from our obligations by reason of any variation or extension being granted to the Bidder or forbearance or omission on the part of the EMPLOYER or any indulgence by the EMPLOYER to the Bidder to give such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.
- e) This Guarantee shall be irrevocable and shall remain in full force and effect until all our obligations under this Guarantee are duly discharged.
- f) The Guarantor has power to issue this Guarantee and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under .....

In Witness whereof the Guarantor has set its hands hereunto on the day, month and year first hereinabove written.

Signed and Delivered by .....  
 Bank by the hand of Shri.....  
 its ..... and authorised official

\* Fill in the scheduled date of submission of bid.



**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 the Party

**FORMAT FOR FURNISHING BANK INFORMATION FOR e-PAYMENT**

|   |                                                 |            |
|---|-------------------------------------------------|------------|
| 1 | Name and full address of the beneficiary        |            |
| 2 | Credit Account No.<br>(Should be full 14 digit) |            |
| 3 | Account Type<br>(SB or CA or OD)                |            |
| 4 | Name of the Bank                                |            |
| 5 | Branch<br>(Full address with telephone No.)     |            |
| 6 | MICR code<br>(Should be 9 digit)                |            |
| 7 | Telephone/Mobile/Fax No. of the beneficiary     | Telephone: |
|   |                                                 | Mobile :   |
|   |                                                 | Fax :      |
| 8 | Cancelled Cheque                                |            |

Signature of the party with seal

**PROFORMA OF PRE-CONTRACT INTEGRITY PACT**  
(To be submitted on non-judicial stamp paper of appropriate value)

**General**

This Pre-Bid, Pre-Contract Agreement (hereinafter called the Integrity Pact) is made on this, the ..... day of the month of ..... 20....., between, the Board of Trustees of Cochin Port Trust acting through Shri. ...., (Designation of the Officer), Cochin Port Trust (hereinafter called the 'BUYER/ EMPLOYER', which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part and M/s..... represented by Shri....., Chief Executive Officer (hereinafter called the "TENDERER/SELLER" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

WHEREAS the BUYER/EMPLOYER has invited Tenders for the project of ..... (**hereinafter referred to as the "Project"**) and the TENDERER/SELLER is submitting his Tender for the Project; and

WHEREAS the TENDERER/SELLER is a Private Limited Company/Public Limited Company/Government Undertaking/Registered Partnership Firm constituted in accordance with the relevant law in the matter/ JV/Consortium and the BUYER/ EMPLOYER is Cochin Port Trust.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the Contract to be entered into, with a view to:-

Enabling Tenderers to abstain from bribing or indulging in any corrupt practice in order to secure the Contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BUYER/ EMPLOYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The Parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

**1. Commitments of the BUYER/ EMPLOYER**

- 1.1 The BUYER/ EMPLOYER undertakes that no official of the BUYER/ EMPLOYER, connected directly or indirectly with the Contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the TENDERER/SELLER, either for themselves or for any person, organization or third party related to the Contract, in exchange for an advantage in the tendering process, tender evaluation, contracting or implementation process related to the Contract.
- 1.2 The BUYER/EMPLOYER will, during the pre-Contract stage, treat all TENDERERS/SELLERS alike and will provide to all TENDERERS /SELLERS the same information and will not provide any such information to any particular TENDERER/SELLER which could afford an advantage to that particular TENDERER/SELLER in comparison to other TENDERERS/SELLERS.
- 1.3 All the officials of the BUYER/ EMPLOYER will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

2. In case any such preceding misconduct on the part of such official(s) is reported by the TENDERER/SELLER to the BUYER/ EMPLOYER with full and verifiable facts and the same is prima facie found to be correct by the BUYER/ EMPLOYER, necessary disciplinary proceedings or any other action as deemed fit, including criminal proceedings may be initiated by the BUYER/ EMPLOYER and such a person shall be debarred from further dealings related to the Contract process. In such a case, while an enquiry is being conducted by the BUYER/ EMPLOYER, the proceedings under the Contract would not be stalled.

### **3. Commitments of TENDERERS**

The TENDERER commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its Tender or during any Pre-Contract or Post-Contract stage in order to secure the Contract and in particular commit itself to the following:-

- 3.1 The TENDERER/SELLER will not offer directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER/ EMPLOYER connected directly or indirectly with the bidding process or to any person, organisation or third party related to the Contract in exchange for any advantage in the tendering, evaluation, contracting and implementation of the Contract.
- 3.2 The TENDERER/SELLER further undertakes that it has not given, offered or promised to give directly or indirectly, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER/ EMPLOYER or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other contract with the BUYER/ EMPLOYER for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the BUYER/ EMPLOYER.
- 3.3\* TENDERERS/SELLERS shall disclose the name and address of agents and representatives and Indian TENDERERS/SELLERS shall disclose their foreign principals or associates.
- 3.4\* TENDERERS/SELLERS shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this Tender/Contract.
- 3.5\* The TENDERER/SELLER further confirms and declares to the BUYER/ EMPLOYER that the TENDERER/SELLER has not engaged any individual or firm or company whether Indian or foreign, to intercede, facilitate or in any way to recommend to the BUYER/ EMPLOYER or any of its functionaries, whether officially or unofficially to the award of the Contract, the TENDERER/SELLER, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- 3.6 The TENDERER/SELLER, either while presenting the Tender or during Pre-Contract negotiations or before signing the Contract, shall disclose any payments he has made, is committed to or intends to make to officials of the BUYER/ EMPLOYER or their family members, agents, brokers or any other intermediaries in connection with the Contract and the details of services agreed upon for such payments.
- 3.7 The TENDERER/SELLER will not collude with other parties interested in the Contract to impair the transparency, fairness and progress of the tendering process, tender evaluation, contracting and implementation of the Contract.
- 3.8 The TENDERER/SELLER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

- 3.9 The TENDERER/SELLER shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the BUYER/EMPLOYER as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The TENDERER/SELLER also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.10 The TENDERER/SELLER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.11 The TENDERER/SELLER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.12 If the TENDERER/SELLER or any employee of the TENDERER/SELLER or any person acting on behalf of the TENDERER/SELLER, either directly or indirectly, is a relative of any of the officers of the BUYER/ EMPLOYER or alternatively, if any relative of an officer of the BUYER/ EMPLOYER has financial interest/stake in the TENDERER/SELLER's firm, the same shall be disclosed by the TENDERER/SELLER at the time of filing of Tender.

The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.

- 3.13 The TENDERER/SELLER shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the BUYER/ EMPLOYER.

#### **4. Previous Transgression**

- 4.1 The TENDERER/SELLER declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify TENDERER/SELLER 's exclusion from the Tender process.
- 4.2 The TENDERER/SELLER agrees that if it makes incorrect statement on this subject, TENDERER/SELLER can be disqualified from the Tender process or the Contract if already awarded, can be terminated for such reason.

#### **5. Earnest Money (Performance Security)**

- 5.1 While submitting commercial Bid, the TENDERER/SELLER shall deposit an amount ..... (to be specified in Tender Document) as Earnest Money, with the BUYER/EMPLOYER through any of the following instruments:
  - (i) Bank Draft or a Pay Order or Banker's Cheque in favour of the FA & CAO, CoPT;
  - (ii) Any other mode or through any other instrument (to be specified in the Tender Document).
- 5.2 The Earnest Money shall be valid upto a period of 148 days from the Tender Due Date.
- 5.3 In case of the successful TENDERER/SELLER, a Performance Security in the form of Bank Guarantee valid till 30 days after the end of defect liability period or any other mode or through any other instrument (to be specified in the Tender Document) will also be furnished to the BUYER/ EMPLOYER, within 14 days of Letter of Acceptance of the Tender by the BUYER/ EMPLOYER.
- 5.4 In case of the successful TENDERER/SELLER, a clause would also be incorporated in the Article pertaining to Performance Security in the Project Contract that the provisions of 'Sanctions for Violations' shall be applicable for forfeiture of

Performance Security in case of a decision by the BUYER/ EMPLOYER to forfeit the same without assigning any reason for imposing Sanction for Violation of this Pact.

5.5 No interest shall be payable by the BUYER/ EMPLOYER to the TENDERER/SELLER on Earnest Money/Performance Security for the period of its currency.

## 6. **Sanctions for Violations**

6.1 Any breach of the aforesaid provisions by the TENDERER/SELLER or any one employed by it or acting on its behalf (whether with or without the knowledge of the TENDERER/SELLER) shall entitle the BUYER/ EMPLOYER to take all or any one of the following actions, wherever required:-

- (i) To immediately call off the Pre-Contract negotiations without assigning any reason or giving any compensation to the TENDERER/SELLER. However, the proceedings with the other TENDERER/SELLER (s) would continue.
- (ii) The Earnest Money Deposit (in Pre-Contract stage) and/or Performance Security (after the Contract is signed) shall stand forfeited either fully or partially, as decided by the BUYER/ EMPLOYER and the BUYER/ EMPLOYER shall not be required to assign any reason therefore.
- (iii) To immediately cancel the Contract, if already signed, without giving any compensation to the TENDERER/SELLER.
- (iv) If the BUYER/ EMPLOYER has disqualified the Tenderer from the Tender process according to Section-4 prior to the award, the BUYER/ EMPLOYER is entitled to demand and recover the damages equivalent to Earnest Money Deposit.

If the BUYER/ EMPLOYER has terminated the Contract according to Section-4, or if the BUYER/ EMPLOYER is entitled to terminate the Contract according to Section-4, the BUYER/ EMPLOYER shall be entitled to demand and recover from the Contractor, liquidated damages equivalent to 5% of the Contract value, or the amount equivalent to Performance Security, whichever is higher.

The TENDERER/SELLER agrees and undertakes to pay the said amounts, without protest or demur, subject only to the condition that, if the TENDERER/SELLER/Contractor can prove and establish that the termination of the Contract after the Contract award has caused no damage or less damage than the amount of the liquidated damages, the TENDERER/SELLER/Contractor shall compensate the BUYER/ EMPLOYER, only to the extent of the damage in the amount proved.

- (v) To debar the TENDERER/SELLER from participating in future tendering processes of the BUYER/ EMPLOYER for a minimum period of five years, which may be further extended at the discretion of the BUYER/ EMPLOYER.
- (vi) To recover all sums paid in violation of this Pact by TENDERER(s) /SELLERS to any middleman or agent or broker with a view to securing the Contract.

6.2 The BUYER/ EMPLOYER will be entitled to take all or any of the actions mentioned at paras 6.1(i) to (vi) of this Pact also on the commission by the TENDERER/SELLER or any one employed by it or acting on its behalf (whether with or without the knowledge of the TENDERER/SELLER), of an offence as defined in Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

6.3 In case of a final decision by the BUYER/EMPLOYER to the effect that a breach of the provisions of this Pact has been committed by the TENDERER/SELLER, it shall be binding and therefore, notified to the TENDERER/SELLER forthwith. However, the TENDERER/SELLER can approach the Independent Monitor(s) appointed for the purposes of this Pact in appeal, under intimation to the BUYER/EMPLOYER, within a period not later than of one month of the date of such notification. In such cases, the decision of the Independent Monitor(s) will be final, conclusive and binding on both the TENDERER/SELLER and the BUYER/EMPLOYER.

## 7. **Fall Clause**

7.1 The TENDERER/SELLER undertakes that it has not performed/is not performing **Similar Project** at a price lower than that offered in the present Tender in respect of any other Port/Ministry/Department of the Government of India or PSU and if it is found at any stage that **Similar Project** was performed by the TENDERER/SELLER to any other Port/Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the TENDERER/SELLER to the BUYER/ EMPLOYER, if the Contract has already been concluded.

“**Similar Project**” means a Project with similar location, topography, soil conditions, scope of work, terms and conditions of Contract and such other aspects which would have material effect on the Tender Price.

## 8. **Independent Monitors**

8.1 The BUYER/ EMPLOYER has appointed the following Independent Monitor (hereinafter referred to as Monitor) for this Pact in consultation with the Central Vigilance Commission.

Shri. P R Ravikumar, IRS (Retd.)  
Akshath, No.84, First Avenue,  
Kumaranasan Nagar, Elamkulam (PO),  
Ernakulam - 6820208.2

8.2 The task of the Monitor shall be to review independently and objectively, whether and to what extent the Parties comply with the obligations under this Pact.

8.3 The Monitor shall not be subject to instructions by the representatives of the Parties and perform their functions neutrally and independently.

8.4 Both the Parties accept that the Monitor have the right to access all the documents relating to the Project/Tendering, including minutes of meetings.

8.5 As soon as the Monitor notices or has reason to believe that a violation of this Pact has occurred, he will so inform the Authority designated by the BUYER/ EMPLOYER,

8.6 The TENDERER/SELLER accepts that the Monitor has the right to access without restriction to all Project documentation of the BUYER/ EMPLOYER, including that provided by the TENDERER/SELLER. The TENDERER/SELLER will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his Project documentation. The same is applicable to Sub Contractors. The Monitor shall be under contractual obligation to treat the information and documents of the TENDERER/SELLER/Subcontractor(s) with confidentiality.

8.7 The BUYER/ EMPLOYER, will provide to the Monitor sufficient information about all meetings among the Parties related to the Project provided such meetings could have an impact on the contractual relations between the Parties. The Parties will offer to the Monitor, the option to participate in such meetings.

8.8 The Monitor will submit a written report to the designated Authority of BUYER/ EMPLOYER within 8 to 10 weeks from the date of reference or intimation to him by the BUYER/ EMPLOYER/ TENDERER/SELLER and, should the occasion arise, submit proposals for correcting problematic situations.

**9. Facilitation of Investigation**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the BUYER/ EMPLOYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the TENDERER/SELLER and the TENDERER/SELLER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

**10. Law and Place of Jurisdiction**

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the BUYER/ EMPLOYER.

**11. Other Legal Actions**

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

**12. Validity**

12.1 The validity of this Integrity Pact shall be from the date of its signing and extend upto 5 years or the complete execution of the Contract to the satisfaction of both the BUYER/ EMPLOYER and the TENDERER/SELLER, including warranty period, whichever is earlier. In case the TENDERER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the Contract.

12.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the Parties will strive to come to an agreement to their original intentions.

13. The Parties hereby sign this Integrity Pact at ..... on .....

BUYER/ EMPLOYER

TENDERER/SELLER

Name of the Officer

Designation

CHIEF EXECUTIVE OFFICER

Cochin Port Trust

Witness:

Witness:

1. ....

1. ....

2. ....

2. ....

\* Provisions of these Clauses would need to be amended/ deleted in line with the policy of the BUYER/ EMPLOYER in regard to involvement of Indian agents of foreign Tenderers.



**PROFORMA OF POWER- OF-ATTORNEY**

**[As per Sub-clause No. 5.1.1.(i)(2) of Instruction to Bidders]**

(On Non-judicial stamp paper of appropriate value )

By this Power-of-Attorney executed on this ....day of .....(month) of , (.....  
*Name and address of the first partner to be filled in.....*) hereby authorize Mr./Ms. (.....  
*.....Name and Address of the person to be filled in.....*) for signing the Joint Venture to be  
entered with (i) (*.....Name of the second partner to be filled in.....*), (ii)  
*.....* on behalf of (*.....Name of the first partner to be filled in.....*)  
for the work of “**Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port**”  
(Bid No.T10/T-1934/2020-C)

Specimen Signature

Attested

Signature :

Name & Designation :

seal

Common seal of the firm :

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

**PROFORMA OF UNDERTAKING**

**[As per Sub-clause No. 5.1.1.(i)(4) of Instruction to Bidders]**

We, (i) (.....*Name and address of the first partner to be filled in*.....), (ii) (.....*Name and address of the second partner to be filled in*) .....,....., the partners of the JV/Consortium (.....*Name of JV to be filled in*.....) hereby undertake that we are jointly and severally liable to the Board of Trustees of Cochin Port for the performance of the contract for the work of “*Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port*” (Bid No.T10/T-1934/2020-C).

(i) Signature

Name

Designation seal

&

Common seal of the firm

(ii) Signature

Name

Designation seal

&

Common seal of the firm

.....

**PROFORMA OF PARENT COMPANY GUARANTEE**  
(To be submitted on Non-judicial Stamp Paper of appropriate value)

To

The Board of Trustees of Cochin Port Trust,  
Kochi,  
Kerala,  
India.

Dear Sir,

We do hereby confirm that.....is a fully owned subsidiary company of.....established at.....

.....and undertakes to provide.....with all necessary support, personnel and financing required..... for the preparation and execution of the work of “*Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port*” (Bid No.T10/T-1934/2020-C)should .....is awarded, the contract for the project as per the terms and conditions of Bid.

Signature :

Name & Designation :

For & on behalf of :

Signature, name and seal of the certifying authority

**AGREEMENT No ..... ..**

**AGREEMENT FOR THE WORK OF “CAPITAL DREDGING FOR  
INDIAN COAST GUARD JETTY BASIN IN COCHIN PORT”**

**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 – 682 009 represented by its Chief Engineer, Sri. ...., S/o....., aged ..... years residing at .....Village, Kochi Taluk, Ernakulam District (hereinafter referred to as the ‘Employer’ which expression shall include his successors, assignees and administrators in the office) of the one part and .....(hereinafter referred as “Contractor” which expression shall include their successors, assignees and administrators) of the other part.

**WHEREAS** the Employer invited Bids for “.....” vide Tender Call Notice No. ....dated .....and the Contractor submitted a Bid for the same giving rates/amounts subject to the terms and conditions etc. of the Bid document.

**AND WHEREAS** the said Bid submitted by the Contractor has been accepted by the Employer vide Letter of Acceptance No. ....dated .....issued to the Contractor while accepting their Bid.

**NOW THESE PRESENTS WITNESSETH** and the parties hereby agree as follows:

1. The Bid 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/amounts specified in the schedule attached hereto and in accordance in all respects with the specifications, designs, drawings and instructions in writing referred to in clauses of the annexed Conditions of Contract included 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. It is mutually agreed that the Bid in its entirety shall form part of this agreement.

Apart from the Bid, the following shall also form part of the agreement.

- a) CoPT’s letter No.....dated.....enclosing Addendum/Corrigendum No..., Annexure etc to the Bid document  
(Attachment - I).
- b) Schedule of quantities submitted by
- c) Letter of Acceptance as per CoPT’s letter number
- d) Acceptance of Letter of Acceptance by .....

## MEMORANDUM

- a) General description : Capital Dredging for Indian Coast Guard Jetty Basin in Cochin Port
- b) Estimated cost : Rs.45.56 Crores
- c) Accepted Contract Amount : .....
- d) Earnest Money Deposit : Rs.45.56 lakhs in the form of Bank Guarantee, enforceable and encashable at Kochi
- e) Security Deposit : 10% of the Contract Price
- f) Performance Security : Rs..... (5% of the Accepted Contract Amount)
- g) Time allowed for commencement of work : 30 / 23 days as specified in Clause 2.2.1 of Special Conditions of Contract
- h) Contract Period : 6 months from Date of Commencement
- i) Schedule, Specifications, Conditions, Drawings etc. : 1 sheet attached

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

On behalf of the Contractor M/s.....

Signed, sealed and delivered By  
Shri

(COMMON SEAL OF )

Signed and affixed seal of individual firms and common seal in the presence of :

1) Signature with address :

2) Signature with address :

On behalf of the Board of Trustees of COCHIN PORT TRUST

**Signed, sealed and delivered by**

**CHIEF ENGINEER**

Signed and affixed the common seal of Board of Trustees of COCHIN PORT TRUST, in the presence of :

1) Signature with address :

2) Signature with address :

**COCHIN PORT TRUST**  
**CAPITAL DREDGING FOR INDIAN COAST GUARD JETTY**  
**BASIN IN COCHIN PORT**  
(Bid No.T10/T-1934/2020-C)  
**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  
(Authorised Signatory)

*\* Note: Delete whichever is not applicable.*

**STRUCTURE AND PROCEDURES TO BE FOLLOWED FOR RESOLVING THE  
DISPUTES THROUGH AMRCD**

*(AS PER DPE OM. No.F.No.4(1)/2013-DPE (GM)/FTS-1835 dated 22-05-2018)*

**A. STRUCTURE**

- i. At the First level (tier), such commercial disputes shall be referred to a Committee comprising of Secretaries of the Administrative Ministries/Departments to which the disputing CPSEs/ Parties belong and Secretary-D/o Legal Affairs. The Financial Advisors (FAs) of the two concerned Administrative Ministries/ Departments will represent the issues related to the dispute in question before the above Committee. In case the two disputing parties belong to the same Ministry/ Department, the above said Committee will comprise Secretary of the administrative Ministry/Department concerned, Secretary- D/o Legal Affairs and Secretary- Department of Public Enterprises. In such case, the matter may be represented before the Committee by the FA and one Joint Secretary of that Ministry/Department.

Further, in case of a dispute between CPSE and State Government Department/ Organisation, the above said Committee will comprise the Secretary of the Ministry/ Department of the Union to which the CPSE belongs and Secretary-D/o Legal Affairs and a senior officer nominated by the Chief Secretary of the State concerned. In such case, the matter will be represented before the Committee by the FA of the concerned administrative Ministry/ Department and the concerned Principal Secretary of the State Government Department/Organisation.

- ii. In case the dispute remains unresolved even after consideration by the above Committee, the same will be referred at the Second level (tier) to the Cabinet Secretary, whose decision will be final and binding on all concerned.

**B. Procedure:**

- i. At the First level (tier), the claiming party (Claimant) will approach the FA of it's administrative Ministry/ Department for representing the dispute before the Secretary of it's administrative Ministry/Department. The Secretary of administrative Ministry/Department of claiming party will intimate the same to the Secretary administrative Ministry/ Department of responding party (Respondent) and Secretary-D/o Legal Affairs and thereafter meetings will take place in the administrative Ministry/Department of the claiming party to examine the facts and thereafter meetings will take place in the administrative Ministries/Departments will represent the issues related to the dispute in question before the above Committee. After arriving at a decision by the Committee, the Secretary of the administrative Ministry/Department of the claiming party will write down the decision and it will be signed jointly by both the Secretaries and Secretary-D/o Legal Affairs. A copy of the decision will be communicated by the Secretary of the administrative Ministry/Department of the claiming party to each party to the dispute for implementation.

- ii. In case where one party (1<sup>st</sup> party) to the dispute is a Department/Organisation of a State Government, the procedure for admitting the dispute will be same as above, however, all meetings in connection with resolution of the dispute will be held in the administrative Ministry/Department (Union) of other party (2<sup>nd</sup> Party) irrespective of the position of the 1<sup>st</sup> Party whether as a Claimant or Respondent. The presentation of the issues before the above Committee in this case will be done by the FA of the concerned Administrative Ministry/ Department and concerned principal Secretary of the State Government Department/ organization.
- iii. The Committee of Secretaries at the First level (tier) shall finalise its decision within 3 months after having received the reference/notice in writing regarding the dispute from the concerned aggrieved party.

### **C. Appeal**

Any party aggrieved with the decision of the Committee at the First level (tier) may prefer an appeal before the Cabinet Secretary at the Second level (tier) within 15 days from the date of receipt of decision of the Committee at First level, through its administrative Ministry/ Department, whose decision will be final and binding on all concerned.

\*\*\*



### LITIGATION HISTORY

Details of Litigation History till 30<sup>th</sup> November 2020 in accordance with clause 5.1.1(y) of Instruction to Bidders are as follows:

| <b>Date,<br/>month<br/>&amp; Year<br/>of<br/>award</b> | <b>Amount of<br/>Award,<br/>INR</b> | <b>Contract Identification</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Total Contract<br/>Amount INR</b> |
|--------------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| <i>[insert date]</i>                                   | <i>[insert amount]</i>              | <p><i>Contract Identification: [indicate complete contract name, number, date and any other identification]</i></p> <p><i>Name of Employer: [insert full name]</i></p> <p><i>Address of Employer: [insert street/city/country]</i></p> <p><i>Matter in dispute: [indicate main issues in dispute]</i></p> <p><i>Party who initiated the dispute: [indicate “Employer” or “Contractor”]</i></p> <p><i>Status of dispute: [Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i></p> | <i>[insert amount]</i>               |
| <i>[insert date]</i>                                   | <i>[insert amount]</i>              | <p><i>Contract Identification: [indicate complete contract name, number, date and any other identification]</i></p> <p><i>Name of Employer: [insert full name]</i></p> <p><i>Address of Employer: [insert street/city/country]</i></p> <p><i>Matter in dispute: [indicate main issues in dispute]</i></p> <p><i>Party who initiated the dispute: [indicate “Employer” or “Contractor”]</i></p> <p><i>Status of dispute: [Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i></p> | <i>[insert amount]</i>               |
| <i>[insert date]</i>                                   | <i>[insert amount]</i>              | <p><i>Contract Identification: [indicate complete contract name, number, date and any other identification]</i></p> <p><i>Name of Employer: [insert full name]</i></p> <p><i>Address of Employer: [insert street/city/country]</i></p> <p><i>Matter in dispute: [indicate main issues in dispute]</i></p> <p><i>Party who initiated the dispute: [indicate “Employer” or “Contractor”]</i></p> <p><i>Status of dispute: [Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i></p> | <i>[insert amount]</i>               |

| Date, month & Year of award | Amount of Award, INR | Contract Identification                                                                    | Total Contract Amount INR |
|-----------------------------|----------------------|--------------------------------------------------------------------------------------------|---------------------------|
|                             |                      | <i>treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i> |                           |

**Certified that the above information is correct as per records and nothing has been omitted / concealed.**

.....(Signature of the Statutory Auditor)  
..... (Full Name of the Statutory Auditor)  
..... (Name of the Statutory Auditor's Firm)  
..... (Complete Address of the Statutory Auditor's Firm)  
..... (Telephone/fax numbers, including country and city codes)  
..... (E-mail of the Statutory Auditor)  
..... (Seal of the Statutory Auditor)

**Membership No. of the Statutory Auditor: .....**

**Notes:**

- (i) The Tenderer shall provide accurate information about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last three years.
- (ii) This may be noted that under this category only cases of arbitration /litigation finally settled against the Tenderer should be listed. If the case is pending at any level of arbitration or judiciary, the same should be listed in Pending Litigation and NOT under Litigation History. A consistent history of awards against the Tenderer may result in failure of the Application/Tender.

DATE:

TENDERER'S SIGNATURE WITH  
STAMP

Table – 1A

**DETAILS OF TYPE OF DREDGER(S)/ DREDGING EQUIPMENT(S) PROPOSED FOR THE WORK**

| Name of vessel | Type of dredger | Hopper Capacity / Daily Capacity of dredging and disposal of in situ material in cu.m | Speed of the vessel in Knots | Whether position fixing system available | Length x Beam x Loaded draft in meters | Year of Built | Whether owned/ rented/ leased/ specially manufactured | Location & Date of availability for mobilization for the work | Proposed period(s) of deployment for the work | Details of supporting equipment, if any | Remarks |
|----------------|-----------------|---------------------------------------------------------------------------------------|------------------------------|------------------------------------------|----------------------------------------|---------------|-------------------------------------------------------|---------------------------------------------------------------|-----------------------------------------------|-----------------------------------------|---------|
| 1              | 2               | 3                                                                                     | 4                            | 5                                        | 6                                      | 7             | 8                                                     | 9                                                             | 10                                            | 11                                      | 12      |
|                |                 |                                                                                       |                              |                                          |                                        |               |                                                       |                                                               |                                               |                                         |         |

Note:

1. The bidder is requested to give all relevant and complete information as required and if required he can use separate sheets.
2. Documents regarding ownership/confirmed chartering agreement is to be attached.

**DETAILS OF FLOATING CRAFTS AND OTHER EQUIPMENTS PROPOSED FOR THE WORK.**

| Item of Equipment | Salient features | Length x Beam<br>x Loaded draft<br>in meters | Year of<br>Built | Whether<br>owned/ rented/<br>leased/ specially<br>manufactured. | Location & Date of<br>availability for<br>mobilization for the<br>work | Proposed period(s) of<br>deployment for the<br>work | Remarks |
|-------------------|------------------|----------------------------------------------|------------------|-----------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------|---------|
| 1                 | 2                | 3                                            | 4                | 5                                                               | 6                                                                      | 7                                                   | 8       |
|                   |                  |                                              |                  |                                                                 |                                                                        |                                                     |         |

**LIST OF INSTRUMENTS FOR SURVEY AND MONITORING OF WORK**

| Sl No: | Description of Equipment proposed for the work | Details required                      |  |
|--------|------------------------------------------------|---------------------------------------|--|
| 1      | 2                                              | 3                                     |  |
| 1      | Survey Launch                                  | Condition of Launch                   |  |
|        |                                                | Type of construction                  |  |
|        |                                                | Speed in knots                        |  |
|        |                                                | Accommodation facility                |  |
|        |                                                | Communication facilities provided     |  |
|        |                                                | Minimum deck space                    |  |
|        |                                                | Is it satisfies Indian Mercantile Act |  |
|        |                                                | Power backup                          |  |
| 2      | Motor Boat                                     | Condition of Launch                   |  |
|        |                                                | Type of construction                  |  |
|        |                                                | Speed in knots                        |  |
|        |                                                | Accommodation facility                |  |
|        |                                                | Communication facilities provided     |  |
|        |                                                | Minimum deck space                    |  |
|        |                                                | Is it satisfies Indian Mercantile Act |  |
|        |                                                | Power backup                          |  |

Note:

The bidder is requested to give all relevant and complete information as required and if required he can use separate sheets

*Table-2*

**DETAILS OF COMPLETED SIMILAR WORKS DURING THE LAST SEVEN YEARS ENDING 30<sup>TH</sup> NOVEMBER, 2020**

| Sl. No. | Name & Location of Project | Owner's Complete address including Telex / Fax No. with contact Person | Value of Contract | Quantity of dredging involved | Duration of Contract |                           |                        | Details of work including disposal of dredged spoil | The type of dredger deployed | Reference No. & Date of Letter of Acceptance & completion certificate enclosed |
|---------|----------------------------|------------------------------------------------------------------------|-------------------|-------------------------------|----------------------|---------------------------|------------------------|-----------------------------------------------------|------------------------------|--------------------------------------------------------------------------------|
|         |                            |                                                                        |                   |                               | Commencement date    | Scheduled completion date | Actual completion date |                                                     |                              |                                                                                |
| 1       | 2                          | 3                                                                      | 4                 | 5                             | 6                    | 7                         | 8                      | 9                                                   | 10                           | 11                                                                             |
|         |                            |                                                                        |                   |                               |                      |                           |                        |                                                     |                              |                                                                                |

Note: Bidder to enclose letter of intent and completion certificate issued by owner, certified by a Notary public or equivalent certifying authority.

*Table –3*

**CURRENT COMMITMENTS OF THE BIDDER**

| Sl. No. | Full Postal Address of Client & Name of Officer – in-Charge | Description of the work | Value of Contract | Date of Commencement of work | Scheduled Completion period | Stage of Completion as on date | Expected date of Completion | Dredger deployment programme |                                 |
|---------|-------------------------------------------------------------|-------------------------|-------------------|------------------------------|-----------------------------|--------------------------------|-----------------------------|------------------------------|---------------------------------|
|         |                                                             |                         |                   |                              |                             |                                |                             | Name of dredger              | Duration of deployment From/ To |
| 1       | 2                                                           | 3                       | 4                 | 5                            | 6                           | 7                              | 8                           | 9                            | 10                              |
|         |                                                             |                         |                   |                              |                             |                                |                             |                              |                                 |

**SIGNATURE OF THE BIDDER**

**PERSONNEL CAPABILITIES**

|              |
|--------------|
| Name of firm |
|--------------|

For specific positions essential to contract implementation, applicants should provide the names of at least two candidates qualified to meet the specified requirements stated for each position. The data on their experiences should be supplied in separate sheets using one Form of table 5(A) for each candidate.

|    |                                   |
|----|-----------------------------------|
| 1. | Title of position :               |
|    | Name of the prime candidate :     |
|    | Name of the alternate candidate : |
| 2. | Title of position :               |
|    | Name of the prime candidate :     |
|    | Name of the alternate candidate : |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |
|    |                                   |



*Table – 4 (A)*

**CANDIDATE SUMMARY**

|                              |                                |                                                                                       |
|------------------------------|--------------------------------|---------------------------------------------------------------------------------------|
| <b>Name of Applicant</b>     |                                |                                                                                       |
| <b>Position</b>              |                                | <b>Candidate</b><br>Prime <input type="checkbox"/> Alternate <input type="checkbox"/> |
| <b>Candidate Information</b> | 1. Name of Candidate           | 2. Date of Birth                                                                      |
|                              | 2. Professional qualifications |                                                                                       |
| <b>Present Employment</b>    | 3. Name of employer            |                                                                                       |
|                              | Address of Employer            |                                                                                       |
|                              | Telephone                      | Contract (manager/personal officer)                                                   |
|                              | Fax                            | Telex                                                                                 |
|                              | Job title of candidate         | Years with present Employer                                                           |

Summarise Professional experience over the last 20 years, in reverse chronological order.  
Indicate particulars of technical and managerial experience relevant to the project.

| From | To | Company / Project / Position / Relevant Technical and Management experience |
|------|----|-----------------------------------------------------------------------------|
|      |    |                                                                             |

**Table- 5**

**FINANCIAL DETAILS**

|                |
|----------------|
| Name of Bidder |
|----------------|

Bidder, should provide the following financial information.

I

|        |                   |                        |
|--------|-------------------|------------------------|
| Banker | Name of banker    |                        |
|        | Address of banker |                        |
|        | Telephone         | Contact name and title |
|        | Fax               | Telex                  |

Note: If necessary, use separate sheets to provide complete banker information.

II. Summarize actual assets and liabilities for the previous five years. Based upon known commitments, summarise projected assets and liabilities for the next two years,

| Financial Information in Million Rs. |                                                    | Actual for previous 5 years |  |  |  |  | Projected for the next two years including current year |  |
|--------------------------------------|----------------------------------------------------|-----------------------------|--|--|--|--|---------------------------------------------------------|--|
|                                      |                                                    |                             |  |  |  |  |                                                         |  |
| (a)                                  | Total assets                                       |                             |  |  |  |  |                                                         |  |
| (b)                                  | Current Assets                                     |                             |  |  |  |  |                                                         |  |
| (c)                                  | Cash, temporary investments and current receivable |                             |  |  |  |  |                                                         |  |
| (d)                                  | Total Liabilities                                  |                             |  |  |  |  |                                                         |  |
| (e)                                  | Current Liabilities                                |                             |  |  |  |  |                                                         |  |
| (f)                                  | Net Worth = (a) - (d)                              |                             |  |  |  |  |                                                         |  |
| (g)                                  | Working Capital = (b) – (e)                        |                             |  |  |  |  |                                                         |  |
| (h)                                  | Authorised Capital                                 |                             |  |  |  |  |                                                         |  |
| (i)                                  | Capital Issued and paid up                         |                             |  |  |  |  |                                                         |  |
| (j)                                  | Current Ratio = (b) / (e)                          |                             |  |  |  |  |                                                         |  |
| (k)                                  | Acid Test Ratio = (c) / (e)                        |                             |  |  |  |  |                                                         |  |
| (l)                                  | Total Liability of net worth = (d) / (f)           |                             |  |  |  |  |                                                         |  |
| (m)                                  | Net Profit Before Tax                              |                             |  |  |  |  |                                                         |  |
| (n)                                  | Net Profit after Tax                               |                             |  |  |  |  |                                                         |  |

III. Specify proposed sources of financing to meet the cash flow demands of the project,

net of current commitment.

| Source of Financing                | Amount<br>in Rs. million |
|------------------------------------|--------------------------|
| 1. Own Resources                   |                          |
| 2. Bank Credits *                  |                          |
| 3. Working Capital with contractor |                          |

IV. Attach audited financial statements for the :  
last five years (for the individual or each  
partner of consortium) \*\*

Note:-

\* The availability of credits for execution of the work shall be supported by the concerned Ban's assurance letter(s) specifying the amounts involved.

\*\* Firms owned by individuals, and partnerships, may submit their balance sheets certified by a registered accountant, and supported by copies of tax returns, if audits are not required by the laws of their countries of origin.

If audited balance sheets are not available, they shall submit their balance sheet certified by a Chartered Accountant and supported by copies of tax returns attested by a Notary or equivalent certifying authority.