

**HALDIA DOCK COMPLEX
KOLKATA PORT TRUST**



ENGINEERING DEPARTMENT INVITE E-TENDER

[Tender No. SDM(P&E)/T/18/2018-2019

&

E-TENDER No.: KoPT/Haldia Dock Complex/P&E Div/20/18-19/ET/303]

FOR

***Hiring of diving equipment / gears on Annual Rate Contract basis for
Haldia Dock Complex, Kolkata Port Trust.***

OCTOBER- 2018

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[Tender No. : SDM(P&E)/T/18/2018-2019]

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KOLKATA PORT TRUST
HALDIA DOCK COMPLEX
SHORT E-TENDER NOTICE

E-Tender No.: KoPT/Haldia Dock Complex/P&E Div/20/18-19/ET/303 Dated: October 12, 2018

Online e-tenders are invited for hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.

Closing date & time of online submission of e-tender: **05.11.2018, up to 16:00 Hrs.**

For details of tender and any corrigendum / addendum, please visit MSTC's e-portal <http://www.mstcecommerce.com/eprochome/kopt.>

General Manager (Engineering)
Haldia Dock Complex
Kolkata Port Trust

KOLKATA PORT TRUST
HALDIA DOCK COMPLEX
NOTICE INVITING E-TENDER

(Tender No. SDM(P&E)/T/18/2018-2019)

E-Tender No.: KoPT/Haldia Dock Complex/P&E Div/20/18-19/ET/303 Dated: October 12, 2018

E-Tenders, under single stage two part system [Part I: **Pre-qualification & Techno-commercial Bid** and Part II: **Price Bid**] are invited on behalf of Haldia Dock Complex (HDC), Kolkata Port Trust (KoPT), from the intending bidders, fulfilling the “**Minimum Eligibility Criteria (MEC)**” and complying with the “**Test of responsiveness**” for “**hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust**”.

2.1 MINIMUM ELIGIBILITY CRITERIA (MEC):

2.1.1 The average annual financial turnover of the bidder, during the last three (3) years, ending 31st March, 2018, must be at least Rs. 4,16,100.00. Auditor’s Report of the bidding firm, certified by Chartered Accountant (CA), for the years 2015-16, 2016-17 and 2017-18, including relevant Audited Balance Sheets and Profit & Loss Accounts, should be made available.

Note: The bidder shall upload the scanned copies of Annual Financial Turnover Statement (certified by CA) for the years 2015-16, 2016-17 and 2017-18 along with Balance Sheets and Profit & Loss Accounts.

2.1.2 Pre-qualification Criteria :

Any firm fulfilling the following criteria, will be considered eligible.

Ownership / possessing of diving equipment / gears :

Intending bidder must own and/or possess (through leasing / hiring agreement / contract) the following diving equipment/gears.

Sl. No.	Description of diving equipment / gears
1.	Air Panel and Air Filter etc.
2.	Diver Communicators
3.	KMB
4.	Diving Suit
5.	Divers fins, booties, demand valve etc.
6.	Umbilical (divers hose) 100m

The bidder must furnish documentary evidence(s) to substantiate the ownership and/or possession of diving equipment / gears through lease/hiring agreement/contract along with the format for ‘**Details of diving equipment / gears of the bidder**’, as per Section – IX, BIDDING FORM – I duly filled in, signed and stamped by the bidder, in support of ownership / possession of diving equipment / gears by the bidder.

2.2 TEST OF RESPONSIVENESS:

The bidder should be considered responsive, only if scanned copy of the required document are uploaded along with bids;

- a) **Goods and Services Tax (GST)** Registration Certificate, issued by Government of India.
- b) **Valid Profession Tax Clearance Certificate (PTCC) or Up-to-date Profession Tax payment challan**, if applicable. If this is not applicable, the bidder must

submit [upload] a declaration in this regard.

- c) **Certificate of MSME / Micro & Small Enterprises (MSEs) / DIC / SSI / National Small Industries Corporation (NSIC)** to get benefit in this regard.
- d) The bidder shall upload the scanned copy of **Power of Attorney**.

2.3 Criteria for association of firms, acting jointly and severally:

In case of **association**, in the form of a **Licensing Agreement** or a **Technical Collaboration Agreement** or a **Joint Venture Agreement** or a **Consortium** with other **manufacturer(s)**, the members of the association should nominate one of the members as “**Lead Partner**” for participating in the bid and for signing all the documents related therewith, up to signing of Contract Agreement and execution thereafter (in case of award of contract). All the members of the association must also be jointly and severally responsible for satisfactory performance of the contract (in case of award of contract). Scanned copies of **Agreements** amongst the “Lead Partner” and other members of the association are to be uploaded by the bidder in the “Pre-qualification & Techno-commercial Bid”.

The experience of each member of Licensing Agreement or Technical Collaboration Agreement or Joint Venture Agreement or Consortium would be considered at par with other firms, subject to the condition that the collective experience of the members, comprising the Licensing Agreement or Technical Collaboration Agreement or Joint Venture Agreement or Consortium, must meet the criteria established in the MEC.

- 2.4** The bidders are required to submit bid as per the instructions of the instant bidding documents (including Notice Inviting e-Tender). Bid will be considered rejected if any of the essential documents is not submitted by the bidder. Essential documents means papers related to “Minimum Eligibility Criteria (MEC)”, “Test of responsiveness”, including Bid Document fee, Earnest Money Deposit and Power of Attorney.

2.5 AVAILABILITY OF THE BIDDING DOCUMENTS:

The bidding documents (in full) would be available in the following websites:-

- <http://www.mstcecommerce.com/eprochome/kopt> of MSTC Ltd.
- <http://eprocure.gov.in/epublish/app> of Central Public Procurement Portal.
- <http://www.kolkataporttrust.gov.in> of Kolkata Port Trust.

Corrigenda, Addenda, Queries & Clarifications, if any, would also be available in the aforesaid websites.

2.6 PARTICIPATING IN THE BIDDING PROCESS:

The bidders will have to participate in the *electronic bidding process through the website of MSTC Ltd. (<http://www.mstcecommerce.com/>) only.*

General Manager (Engineering)
Haldia Dock Complex
Kolkata Port Trust

SCHEDULE OF TENDER (SOT)

(Tender No. SDM(P&E)/T/18/2018-2019)

E-Tender No.: KoPT/Haldia Dock Complex/P&E Div/20/18-19/ET/303 Dated: October 12, 2018

3.1.	Name of work	::	Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.
3.2.	Tender Inviting Authority	::	General Manager (Engg.) Haldia Dock Complex ; Kolkata Port Trust.
3.3.	Mode of Tender	::	e-Procurement System Online (Part I: Pre-qualification & Techno-commercial Bid and Part II: Price Bid) through http://www.mstcecommerce.com/eprochome/kopt . of MSTC Ltd. <i>No physical tender is acceptable by Haldia Dock Complex, Kolkata Port Trust.</i>
3.4.	Estimated Cost	::	Rs. 13,87,000.00 (excluding GST).
3.5.	i) Transaction Fee	::	The intending bidders must deposit Rs. 819.00 (Indian Rupees: Eight hundred nineteen) only [Including GST @18%] as “ Transaction Fee ” (non-refundable), in favour of MSTC LIMITED by NEFT or Online Payment . The intending bidders will be activated for bid submission only after receipt of aforesaid “ Transaction Fee ” by MSTC LIMITED . The intending bidders are advised to remit the “Transaction Fee” well in advance before the closing time of the event, so as to give themselves sufficient time to submit the bid.
	ii) Bid Document Fee (Cost of bidding documents)	::	The intending bidders must deposit Rs 590.00 (Indian Rupees: Five hundred ninety only) only [including GST @ 18%], as Bid Document Fee (non-refundable) , to Haldia Dock Complex, along with their offer. In case the said Bid Document Fee is not deposited by the bidder, the respective bid will be summarily rejected, treating the same as non-responsive.
	iii) Earnest Money Deposit (EMD)	::	The intending bidders must deposit Rs. 7,000.00 (Indian Rupees: Seven thousand) only , as Earnest Money , to Haldia Dock Complex, along with their offer. In case the said Earnest Money is not deposited by the bidder, the respective bid will be summarily rejected, treating the same as non-responsive.

			<p>NOTE ::</p> <p>(i) For exemption of Bid Document Fee and EMD to upload the scanned copy of Certificate from Micro & Small Enterprises (MSEs)/ DIC (District Industries Centre) Certificate/Udyog Adhar/SSI/National Small Industries Corporation (NSIC) [under Single Point Registration Scheme (SPRS)] or any empowered Central/State Govt. authority is required, with respect to items for which the firm got them registered, in electronic format.</p> <p>(ii) The bidders, who are not registered with MSTC, are advised to get themselves registered with MSTC, at least 72 (seventy-two) hours prior to making payment of Bid Document Fee and Earnest Money.</p> <p>(iii) The bidders are advised to deposit Bid Document Fee and EMD using the Axis Bank Payment Gateway only. No other method of payment of Bid Document Fee shall be accepted.</p>
3.6.	Duration of hiring :	::	Duration of hiring of diving gears/equipment would be one year from the date of acceptance of diving gears/equipment at site.
3.7.	Bid Validity	::	120 days.
3.8.	Security Deposit	::	10 % of the Contract Value (excluding GST).
3.9.	i) Starting date & time of submission of e-Tender at http://www.mstcecommerce.com/eprochome/kopt	::	16.10.2018 from 11.00 Hrs. (IST).
	ii) Closing date & time of submission of e-Tender at http://www.mstcecommerce.com/eprochome/kopt	::	05.11.2018 up to 16.00 Hrs. (IST).
	iii) Date & time of opening of Part-I (Techno-commercial Bid)	::	05.11.2018, 16.30 Hrs. (IST) onwards.
	iv) Date & time of opening of Part-II (Price Bid)	::	Shall be informed separately.
3.10.	Address of the Employer	::	Kolkata Port Trust (KoPT). 15 Strand Road, Kolkata – 700 001, West Bengal, India.

3.11.	Address of Engineer	::	General Manager (Engineering) Haldia Dock Complex ; Kolkata Port Trust. <u>Address:</u> Engineering Department Jawahar Tower Complex ; P.O.: Haldia Township; Dist.: Purba Medinipur ; PIN: –721607 West Bengal, India. Telephone no. : + 91-3224-263255 E. mail : aganesan.hdc@nic.in
3.12.	Address of the Engineer's representative	::	Shri A. K. Kar, Sr. Dy. Manager (P&E), Haldia Dock Complex, Operational Administrative Building (1 st floor), Chiranjibpur; P.O: Haldia; Dist.: Purba Medinipur; PIN: 721 604; West Bengal; India. Telephone no. : + 91-3224-252332 Mobile no. : + 91 94340 52489 E. mail : akkar.hdc@nic.in

General Manager (Engineering)
Haldia Dock Complex
Kolkata Port Trust

SECTION – IV

INSTRUCTIONS FOR ONLINE BID SUBMISSION

4.1 Introduction:

- 4.1.1** This is an e-procurement event of **HALDIA DOCK COMPLEX**. The e-procurement service provider is **MSTC Ltd.**, 225C, A.J.C. Bose Road, Kolkata-700 020.
- 4.1.2** The intending bidders are requested to go through the “**Instructions To Bidders (ITB)**” and contents of this bidding document, including all terms & conditions and Technical Specifications before submitting online tender. Bidders who do not comply with the requirements / conditions, with documentary proof (wherever required), will not qualify in the tender, for opening of Price Bid.
- 4.1.3** **SPECIAL NOTE:**
THE PRE-QUALIFICATION & TECHNO-COMMERCIAL BID AND PRICE BID SHALL HAVE TO BE SUBMITTED ON-LINE AT www.mstcecommerce.com/ eprochome/kopt only.
- 4.1.4** Possession of valid Digital Signature Certificate (DSC) [Class **III Signing Type**] and Registration of the intending bidder with **MSTC Limited** on the e-Procurement / e-Tender Portal of MSTC are pre-requisites for the instant e-Tendering.
- 4.1.5** The Digital Signature Certificate (DSC) [Class **III Signing Type**], issued by nCode/eMudra or any Certifying Authority (CA) recognized by Controller of Certifying Authorities (CCA), India, should be registered. Only the DSC that is registered should be used by the bidder and the bidder should ensure safety of the same.
- 4.1.6** The intending bidders are requested to read the vendor guide and see the video in the webpage www.mstcecommerce.com/eprochome to familiarize themselves with the system before bidding.
- 4.1.7** The online tender should be submitted strictly as per the terms and conditions and procedures laid down in the website www.mstcecommerce.com/eprochome/ of **MSTC Limited**.
- 4.1.8** All entries in the tender should be entered in online Technical & Commercial formats, without any ambiguity.
- 4.1.9** The e-Tender platform shall remain open from the pre-announced date & time and for as much duration as mentioned in the Schedule of Tender (SOT).
- 4.1.10** E-tender cannot be accessed after the closing date and time of e-Tender, mentioned in the Schedule of Tender (SoT) of the instant bidding documents.

4.2 Process of e-tender :

4.2.1 Registration:

The process involves **vendor’s registration with MSTC e-procurement portal** which is **free of cost**. Only after registration, the vendor(s) can submit his / their bids electronically. Electronic bidding for submission of Techno-Commercial Bid as well as Price Bid will be done over the internet. The **Vendor should possess Class III Signing type Digital Certificate**. Vendors are to make their own arrangement for bidding from a Personal Computer / Laptop, connected with Internet. **MSTC** is not responsible for

making such arrangement. (*Bids will not be recorded without Digital Signature*).

4.2.2 Steps for Registration:

- i) Vendors are required to register themselves online with www.mstcecommerce.com → e-Procurement → PSUs / Govt. Departments → Kolkata Port Trust → Register as Vendor → (Filling up required details and creating own user id & password) → Submit.
- ii) Vendors will receive system generated mail(s), confirming their registration, in their e-mail ID(s), which has been provided during filling up the registration form.

4.2.3 The intending bidders are requested to submit their bids, keeping sufficient time in hand.

4.2.4 In case of any clarification regarding online submission of bids, the intending bidders are requested to contact HDC/MSTC, well in advance, keeping sufficient time in hand.

Contact person (Haldia Dock Complex):

- (i) Shri A. K. Kar,
Designation: Sr. Deputy Manager (P&E)
Mobile No.: + 91 94340 52489
Landline: + 91-3224-252332
E-mail : akkar.hdc@nic.in
- (ii) Shri S.K.Das
Designation: Deputy Manager (P&E)
Mobile No.: + 91 94340 31327
Landline: + 91-3224-252578
E-mail : skdas.hdc@nic.in

Contact persons (MSTC Ltd.):

- (i) Shri S. Mukherjee
Deputy Manager (e-Commerce)
Mobile : +91 – 72780 30407
Landline: +91 – 33 – 2290 1004
E-mail : smukherjee@mstcindia.co.in
- (ii) Mrs. S. Maity
Assistant Manager (e-Commerce)
Mobile : +91 – 98311 55225
Landline: +91 – 33 – 2290 1004
E-mail : smaity@mstcindia.co.in

4.2.5 System requirements and other requirements:

- i) Operating System: Windows 7 or above.
- ii) Internet Browser: IE-7 or above.
- iii) Class-III Signing Type Digital Certificate.
- iv) Latest update JRE 8 (x86 Offline) Software to be downloaded and installed in the system.
- v) To disable “Protected Mode” for DSC (Digital Signature Certificate) to appear in the signer box, the following setting may be applied:

Tools => Internet Options => Security => Disable Protected Mode (if enabled), i.e., remove the tick from the tick box mentioning “Enable

Protected Mode”.

- vi) Other settings:
Tools => Internet Options => General => Click on Settings under “Browsing History/Delete Browsing History” => Temporary Internet Files => Activate “Every time I visit the webpage”.
- vii) To enable ALL Active X controls and disable ‘use pop up blocker’ under Tools → Internet Options → Custom Level (Please run IE settings from the webpage www.mstcecommerce.com once).

4.2.6 **Bidding in e-tender:**

- i) The intending bidders need to submit necessary Transaction Fee, to become eligible to bid online in the e-Tender. Transaction Fee is non-refundable.

Bid Document Fee is non-refundable. Earnest Money Deposit will be refunded to the unsuccessful bidders, without any interest, within 2 (two) months from the date of opening of Price Bids or on finalization/ acceptance of tender, whichever is earlier. Earnest Money Deposit of the successful bidder will be refunded, without any interest, after submission of Security Deposit by them.
- ii) The bidders must upload all the documents required as per the instant bidding documents (including Notice Inviting e-Tender). Any other document uploaded, which is not required as per the instant bidding documents (including Notice Inviting e-Tender), shall not be considered.
- iii) **Certificate of MSME / Micro & Small Enterprises (MSEs) / DIC / SSI / Small Industries Corporation (NSIC)** shall have to be submitted (uploaded) to get benefit.
- iv) Unit of Measure (UOM) is indicated in the e-Tender platform. Rate to be quoted should be in Indian Rupees, as per UOM indicated in the e-Tender platform or in the bidding documents.
- v) **Steps for submitting Pre-Qualification & Techno-Commercial Bid and Price Bid :**

The intending bidder(s), who have submitted the required Transaction Fee, can only submit their Pre-qualification & Techno-commercial Bid and Price Bid, through Internet, in MSTC website. The steps are given hereunder:

- a) www.mstcecommerce.com → e-Procurement → PSUs/Govt. Departments → Kolkata Port Trust → Login → My Menu → Auction Floor Manager → Live Event → Selection of the Live Event → Techno-commercial Bid
- b) The bidder should allow running JAVA application. This exercise has to be done immediately after opening of Bid Floor. Then the necessary steps, as would appear, would have to be followed. If this application is not run, then the bidder will not be able to save/submit their bid.
- c) After filling the Techno-commercial Bid, the bidder should click on “Save” for recording their Techno-commercial Bid. Once the same is done, the Price Bid link becomes active and the same has to be filled up and then the bidder should click on “Save” to record their Price Bid. Then once both the Techno-commercial Bid and Price Bid have been saved, the bidder can click on the “Final submission” button to register their bid.
- vi) The bidders should quote their offered prices appropriately, only in the aforesaid Price Bid link. Price indicated anywhere else, in any other form or

manner, will not be considered for evaluation of Price Bid.

- vii) The Techno-commercial Bid and Price Bid cannot be modified/revised, once the “Final submission” button has been clicked by the bidder.
- viii) After submitting online bid, the bidder cannot access the bid submitted by him/them, once the “Final submission” button has been clicked by the bidder.

4.2.7 Special Note towards Transaction Fee:

The intending bidder shall pay the Transaction Fee using “Transaction Fee Payment” link under “My Menu” in the vendor login. The intending bidder has to select the particular tender from the event dropdown box. The intending bidder shall have the facility of making the payment either through NEFT or Online Payment. On selecting NEFT, the intending bidder shall generate a challan by filling up a form. The intending bidder shall remit the Transaction Fee amount as per the details printed on the challan, without making change in the same. On selecting Online Payment, the intending bidder shall have the provision of making payment using its Credit Card/Debit Card/Net Banking. Once the payment gets credited to MSTC’s designated Bank account, the Transaction Fee shall be auto authorized and the intending bidder shall be receiving a system generated mail.

Transaction Fee is non-refundable.

An intending bidder will not have access to online e-Tender without making payment towards Transaction Fee. In other words, an intending bidder will be activated for bid submission, only after receipt of the Transaction Fee by MSTC Limited.

NOTE: The intending bidders are advised to remit the “Transaction Fee” well in advance before the closing time of the event, so as to give themselves sufficient time to submit the bid.

4.2.8 Procedure of payment of Earnest Money and Bid Document Fee through Axis Bank Gateway :

- i) The bidder would be able to access the payment gateway from the Vendor login page of the MSTC ecommerce site (www.mstcecommerce.com → e-Procurement → PSU/Govt. depts. → Kolkata Port Trust) under the icon “HDC EMD/Tender Fee Payment”. Clicking this icon will take the bidders to the Axis Bank Gateway.
Alternatively, the bidder can also access the gateway by from Axis Bank Easy Pay website (<https://easypay.axisbank.co.in> → Others → Haldia Dock Complex).
- ii) The bidder will be required to mention the bidder’s ID (the ID used by the bidder for logging in the MSTC website) and Bid ID (E-Tender No. of the tender against which the bidder intends to submit bid) and then click ‘VALIDATE’.
- iii) A webpage will populate, where the bidder will be required to select “Earnest Money” OR “Bid Document Fee”, then indicate his Mobile Number and the CAPTCHA displayed in the webpage.
- iv) Depending on the selection, another webpage will come up.
- v) In case of selection of Earnest Money (EM), the bidder will be required to select the option of With or Without Bank Guarantee. In case of the instant tender, where there is no option to pay the EM through Bank Guarantee (BG), the bidders should select the option ‘Without’.
- vi) The bidder will be required to mention their Bank Account Number, IFSC of their Bank and the name of the account, insert the CAPTCHA mentioned in the

webpage and then 'SUBMIT'. In case of Bid Document Fee payment, Bank Account Number would not be required.

An URN Number will be generated. Bidders should keep note of this URN Number for all future reference.

- vii) Another webpage will come up and the bidder will have the option to select payment methods from – (i) Internet Banking and (ii) NEFT/RTGS, after agreeing with the terms and conditions, by clicking the dialogue box appearing in the webpage.
- viii) In case of selection of Internet Banking, the bidder will be required to select any Bank of their choice and depending on the selection, the bidder will then be guided to the webpage of the respective Bank.
After validating the payment in the respective Bank, the system will return to the Axis Bank Payment Gateway.
- ix) In case of selection of RTGS/NEFT, the webpage will generate a payment advice. The Bank Account Number, IFSC of the Bank, name of the payee, i.e., Haldia Dock Complex, and the amount to be paid will be indicated in the said payment advice. The bidder will also get an SMS and e-mail detailing the same.
The bidder will be required to mention the same correctly in the Bank Challan, which is required to be filled up for payment by RTGS/NEFT in the Bank from where they intend to make the payment.
The bidders should note that Bank a/c number of HDC, mentioned in the Payment Advice, will change for each and every transaction and hence, for each and every payment, the entire process from the beginning will have to be followed for generation of a URN Number.
- x) For payment of Bid Document Fee, identical process is to be followed.
- xi) The bidders will be able to know the status of their payment, by using the 'Enquire URN' facility, by mentioning the URN Number in the Axis Bank login page. Until such time the payment is credited to HDC's a/c, the system will show the status as 'Pending'.
- xii) The bidders should note that until such time the status remains 'Pending', the payment is not made to HDC and mere generation of URN Number will not signify payment of EM or Bid Document Fee. Hence, if the status remains 'Pending' after some time of submitting the RTGS/NEFT payment request at their Bank, then the bidders should contact their Bank to enquire about the status of RTGS/NEFT request.
- xiii) In case of any problem relating to use of the payment gateway, the bidders should contact the tender inviting authority, whose phone number and e-mail address are mentioned in the e-Tender.

4.2.9 Special Note towards uploading required documents:

The intending bidders are instructed to use "Attach Doc" button to upload documents in document library. Multiple documents can be uploaded.

4.3 Instructions related to Micro & Small Enterprises (MSEs):

- 4.3.1 **Certificate from Micro & Small Enterprises (MSEs)/ DIC (District Industries Centre) Certificate/Udyog Adhar/SSI/National Small Industries Corporation (NSIC) [under Single Point Registration Scheme (SPRS)] or any empowered Central/State Govt. authority is required for exemption from depositing Bid Document Fee and Earnest Money, with respect to items for which the firm got them registered.**

- 4.3.2 Micro & Small Enterprises (MSEs)** registered with **NSIC under Single Point Registration Scheme (SPRS)** are eligible to get the benefits under new **Public Procurement policies** for MSEs as notified by the **Government of India, Ministry of Micro, Small & Medium Enterprises (MSME)** in **The Gazette of India** vide No. 503, dated 26.03.2012.
- 4.3.3** When splitting of tender quantity is not possible purely on technical ground, Trustees reserve the right not to negotiate price with MSE if their price is within the band of L1+15% in comparison with L1 price of non-MSE for consideration of award of order for 20% of tender quantity against any item as per new public procurement policy.
- 4.3.4** If **Micro & Small Enterprises (MSEs)**, registered with NSIC [under single point registration scheme] intend to participate with respect to items for which they are not registered with NSIC, then they will have to deposit full amount of **Bid Document Fee** and **Earnest Money**, in accordance with the **Schedule of Tender (SoT)**. Otherwise, their offer with respect to such items (for which they are not registered with NSIC) will not be considered.

4.4 Other Instructions related to e-Procurement:

- 4.4.1** All notices and correspondence with the bidder(s) shall be sent by e-mail only during the process till finalization of tender by HDC, KoPT. Hence, the intending bidders are required to ensure that their e-mail IDs provided are valid and updated at the stage of registration of bidders with MSTC (i.e., Service Provider). The intending bidders are also requested to ensure validity of their DSC (Digital Signature Certificate).
- 4.4.2** In all cases, an intending bidder should use their own ID and Password, along with Digital Signature, at the time of submission of their bid. It is mandatory that all bids are submitted with Digital Signature Certificate (DSC), otherwise the same will not be accepted by the system.
- 4.4.3** Addenda, Corrigenda and Queries & Clarifications (with respect to the instant e-Tender), if any, would be hosted in the e-Procurement portal of MSTC.
- Since there is no provision to take out the list of intending bidders downloading the bidding documents from the websites mentioned in the Tender Notice, the intending bidders are requested to check the website of MSTC to ensure that they have not missed any Addenda, Corrigenda and Queries & Clarifications, uploaded against the instant e-Tender, after downloading the bidding documents. The responsibility of downloading such Addenda, Corrigenda and Queries & Clarifications, if any, will be that of the intending bidders.
- 4.4.4** No deviation/variation of the techno-commercial terms and conditions of the bidding documents will be considered by HDC, KoPT. Submission of bid in the e-Tender platform by any bidder confirms their acceptance of the techno-commercial terms and conditions of the bidding documents.
- 4.4.5** HDC, KoPT reserves the right to accept or reject any bid (in full or part) and to annul the bidding process and to reject all bids, at any time prior to contract award, without assigning any reason thereof and without thereby incurring any liability to the bidders.
- 4.4.6** Any order resulting from this open e-Tender shall be governed by the terms and conditions mentioned therein.
- 4.4.7** All electronic bids submitted during the e-Tender process shall be legally binding on the bidders. Any bid will be considered as the valid bid offered by that bidder and acceptance of the same by HDC, KoPT will form a binding contract, between HDC, KoPT and the bidder, for execution of the work. Such successful bidder shall be called hereafter the 'CONTRACTOR'.
- 4.4.8** The bids will be evaluated based on the filled-in Technical & Commercial formats and

the requisite documents submitted (uploaded) by the bidders.

4.4.9 The documents uploaded by bidder(s) will be scrutinized. During scrutiny, in case any of the information furnished by the bidder is found to be false, Earnest Money Deposit of such defaulting bidder(s) will be forfeited. Punitive action, including suspension and banning of business, can also be taken against such defaulting bidder(s).

4.4.10 HDC, KoPT, at its discretion, may extend the closing date & time of e-Tender, prior to the closing date & time of e-Tender mentioned in the Schedule of Tender (SoT). However, the closing date & time of e-Tender will not be extended, under any situation, after the due date is over.

4.5 Opening of Part-I (i.e. Pre-qualification & Techno-commercial Bid) and Part-II (i.e. Price Bid) :

4.5.1 Part I (Pre-qualification & Techno-commercial Bid) will be opened electronically on specified date and time, as given in the Schedule of Tender (SoT). Bidder(s) can witness electronic opening of bid(s).

4.5.2 Part II (Price Bid) will be opened electronically of only those bidder(s), who qualify(ies) in the “Pre-qualification & Techno-commercial Bid” [Part I]. Such bidder(s) will be intimated date of opening of Part II (Price Bid), through e-mail, to valid e-mail ID(s) confirmed by them.

SECTION – V

INSTRUCTIONS TO BIDDERS (ITB)

A. GENERAL

5.1 Definition and interpretations :

- (a) the term “in writing” means communicated in written form (i.e. by mail, e-mail, fax, telex, etc.) and delivered against receipt;
- (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) “day” means calendar day; and
- (d) “procurement” means the entire work requirements, as specified in **Section VI Technical Specification**.

5.2 Fraud and corruption

5.2.1 It is the policy of **Kolkata Port Trust (KoPT)** to require that bidders, Contractors, Sub-contractors, and Consultants, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, **KoPT** :

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “**corrupt practice**” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “**fraudulent practice**” means a misrepresentation or omission of facts, in order to influence a public procurement process or the execution of a contract;
 - (iii) “**collusive practice**” means a scheme or arrangement between two or more bidders, designed to establish Bid Prices at artificial , non competitive levels;
and
 - (iv) “**coercive practice**” means harming, or threatening to harm, directly or indirectly, persons or their property to influence their participation in procurement process or affect the execution of a contract;
- (b) will reject a proposal for award, if it determines that the bidder, recommended for award, has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question;
- (c) Will terminate contract, if it determines at any time that representatives of KoPT engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract ;
- (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a

contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, a contract;

and

- (e) will have the right to require that a provision be included in Bidding Documents and in contracts, requiring bidders, contractors, subcontractors, and consultants to permit KoPT to inspect their accounts and records and other documents relating to the bid submission and contract performance.

5.2.2 Furthermore, bidders shall be aware of the provision stated in GCC.

5.3 Eligible bidders

5.3.1 A Bidder, and all parties constituting the Bidder, **should have the nationality of any country**. A Bidder shall be deemed to have nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of the country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or contractors for any part of the contract, including related services

5.3.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if the Bidder and one or more parties :

- (a) Submit more than one bid in this bidding process.

Or

- (b) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by **KoPT** to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under the instant Bidding Documents.

5.3.3 Participating by a Bidder in more than one bid shall result in the disqualification of all bids, in which such Bidder is involved.

5.3.4 A Bidder that is under a declaration of ineligibility by **KoPT**, in accordance with **ITB Clause No.5.2**, at the date of contract award shall be disqualified.

5.3.5 The same firm may be allowed to bid in both capacities (individually and also as Joint Venture), provided that the proposed Joint Venture is a Registered Company under Company Law, having a separate Legal entity.

5.3.6 If any bidder has a **Licensing Agreement** or a **Technical Collaboration Agreement** or a **Joint Venture Agreement** or a **Consortium** with other **manufacturer(s)**, then the bidder should comply with the following:

5.3.6.1 A copy of **Licensing Agreement/ Technical Collaboration Agreement/ Joint Venture Agreement** is to be uploaded along with the “Pre-qualification & Techno-commercial Bid”, duly attested by the bidder. All Agreements should be in the nature of legally valid Agreements.

5.3.6.2 The bidder should submit an additional Supplementary Agreement, duly signed by all the Partners of the **Licensing**

Agreement/Technical Collaboration Agreement/Joint Venture Agreement, on a Non-judicial Stamp Paper of worth not less than Rs. 50.00, duly notarised, covering the following points:

- 5.3.6.2.1 The **Licensing Agreement/ Technical Collaboration Agreement/Joint Venture Agreement**, irrevocable in nature, is valid for at least a continuous period of 10 (ten) years from the date of commissioning of the plant.
- 5.3.6.2.2 One of the partners shall be nominated as the “Lead Partner”.
- 5.3.6.2.3 The Lead Partner shall be authorised to incur liabilities and receive instructions for & on behalf of any & all the partners. The entire execution of the contract, including payment, shall be carried out exclusively through the Lead Partner.

During the entire period of the contract, the Lead Partner cannot be ill s .

In the event of the Lead Partner becoming defunct, selection of the new Lead Partner ill be made, as may be mutually agreed between the remaining partner(s) and KoPT, without any additional financial involvement. As the approval towards ill new Lead Partner is the sole discretion of KoPT, it must be approved by them, in writing.

The said new Lead Partner shall also be jointly, as well as severally, liable with the remaining partner(s) for the satisfactory performance of the contract as per the scope of these bidding documents.

- 5.3.6.2.4 The scope and responsibilities of all the Partners of Licensing Agreement/Technical Collaboration Agreement /Joint Venture Agreement, in terms of financial & technical commitment/contribution, should be explicitly mentioned and the Partners should be severally & jointly ill s id e for the satisfactory performance of the contract as per the scope of these bidding documents.

- 5.3.6.2.5 In case of successful bidder, the Contract Agreement is to be signed by legally authorised signatories of all the Partners.

(a) In the event of default of any Partner in the execution of his part of the contract, the Lead Partner shall have authority to assign the work to any other party ill s id to the Employer (KoPT), to ensure the execution of the part of the contract. The said party shall also be jointly [with the remaining Partner(s)] as well as severally liable so far as the unfinished part of the contract is ill s id.

5.4 Authority in signing the bid / offer

- 5.4.1** In case the bid is submitted by a **Proprietorship Firm**, the same should be signed either by the **Proprietor** or other person(s), holding a valid **power of attorney / authorisation** from the proprietor, in connection with this bidding process. The signature of such power of attorney holder(s) / authorised person(s) should be attested by the proprietor. Such **power of attorney / authorisation** should be uploaded along with **Techno-commercial Bid [Part I]**.
- 5.4.2** In case the bid is submitted by a **Partnership Firm**, the same should be signed either by the partner(s), holding valid **power of attorney** from the partners or other person(s), holding valid **authorisation** from such power of attorney holder(s) , subject to approval of the partner(s) in the matter of giving such authorization, in connection with this bid. The signature of such **power of attorney holder(s) / authorised person(s)** should be attested by the **partners** or **power of attorney holder**, as the case may be. Such **power of attorney / authorisation** should be uploaded along with **Techno-commercial Bid [Part I]**.
- 5.4.3** In case the bid is submitted by a **Limited Company**, the same should be signed by the person(s) holding valid **power of attorney / authorisation**, executed in his / their favour (in connection with this bid) and the signature of such **power of attorney holder(s) / authorised person(s)** should also be attested, in accordance with the constitution of the Limited Company. Such **power of attorney / authorisation** should be uploaded along with **Techno-commercial Bid [Part I]**.
- 5.4.4** Such **power of attorney holder(s) / authorised person(s)** should put his / their signature identical with the attested one, in the relevant documents submitted / uploaded, in connection with the instant bidding process [including “**Techno-commercial Bid**”]. In case of putting different signatures in different documents / offers, all such signatures should be attested by the same person in line with the above.

B. CONTENTS OF BIDDING DOCUMENTS

5.5 Sections of Bidding Documents

- 5.5.1** The contents of the **Bidding Documents** as detailed at “TABLE OF CONTENTS” should be read in conjunction with any addendum / corrigendum issued in accordance with **ITB Clause No. 5.7**.
- 5.5.2** The Employer (KoPT) is not responsible for the completeness or correctness of the bidding documents and their Addenda, if they were not obtained directly from the source indicated in Notice Inviting e-Tender .
- 5.5.3** The bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents [considering all addenda / corrigenda issued] may result in the rejection of the bid.

5.6 Amendment of Bidding Documents

- 5.6.1** At any time, prior to the last date for submission of bids, **KoPT** may, for any reason whether at its own initiative or in response to the **queries/ observations/suggestions/requests for clarification**, amend and modify the bidding documents by issuing Addenda/Corrigenda. Such Addenda/Corrigenda will be hosted in the websites, as specified in the

Notice Inviting e-Tender.

- 5.6.2** Any Addendum/Corrigendum, thus issued, shall be part of the bidding documents and shall be communicated, in writing, to all the known prospective bidders (i.e., who would attend Pre-bid Meeting or submit queries / observations / suggestions or request for clarification), in writing, well in advance to the last date of submission of bids.
- 5.6.3** To give prospective bidders reasonable time to take the Addendum / Corrigendum into account in preparing their bids, KoPT may, at their discretion, extend the last date for submission of the bids, prior to the closing date & time of e-Tendering.

C.

PREPARATION OF BIDS

5.7 Cost of bidding

The Bidder shall bear all costs associated with the preparation and submission of their bid, and **KoPT** shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

5.8 Language of Bid

The Bid, as well as all correspondence and documents relating to the bid, exchanged by the Bidder and KoPT, shall be written in the **English language only**. If the supporting documents and printed literature, that are part of the bid, are in another language, they must be accompanied by an accurate translation of the relevant passages in the English language, in which case, for purposes of interpretation of the bid, such translation shall govern.

5.9 Documents comprising the Bid

The Bid shall comprise of the following :-

(a) **Pre-qualification and Techno-commercial Bid:**

The Pre-qualification & Techno-commercial Bid comprises all documents [including the Bidding Forms (provided in these bidding documents), duly filled in, signed and stamped] required to be submitted as per the Notice Inviting e-Tender, Schedule of Tender (SoT), Instructions To Bidders (ITB) and any other relevant clause(s) of these bidding documents.

(b) **Price Bid:**

The Price Bid comprises the prices only and the same are to be submitted electronically, through the website of MSTC Limited only.

5.10 Form of Tender

The bidder shall have to submit (upload) the “**FORM OF TENDER**”. This form **must be completed without any alterations** to its format, and no **substitutes shall be accepted**. All blank spaces shall be filled in with the information requested. Such **duly filled in “FORM OF TENDER”** should be uploaded.

5.11 Price Schedule

5.11.1

The Bidder shall quote their price on-line (**through MSTC portal only**) as per the **Price Schedule** (Bill of Quantities) in the Price bid (Part-II), without any condition or deviation. Price indicated anywhere else, in any other form or manner, will not be considered for evaluation of Price Bid.

5.11.2 The Bidder should submit (upload) the **unpriced** format [Bidding Form VI : **PRICE SCHEDULE**], of the instant Bidding Documents, duly filled in the GST rates at appropriate places and signed & stamped as token of acceptance.

5.12 Bid Prices

5.12.1 The prices are to be quoted by the Bidder **through MSTC portal**, considering the work requirements, as detailed in **Section VI (Technical Specification)** and other terms & conditions of the Bidding Documents (considering all addenda / corrigenda issued).

5.12.2 Except where otherwise expressly provided, the contractor shall have to provide all materials, labour, plant and other things necessary in connection with the contract, although everything may not be fully specified, and although there may be errors and omissions in the specifications.

5.12.3 The prices and rates entered (electronically through MSTC Portal) **as per the Price Schedule** (Bill of Quantities), in the Price bid (Part-II), by the **Bidder**, shall include, inter alia, all costs and expenses involved in or arising out of the following:

- (a) Supply, delivery, inspection, transportation (including insurance), handling, receipt and storage of all required materials [in line with Technical Specification (Section VI)] and equipment at site.
- (b) The provision, storage, transport, handling, use, distribution & maintenance of all materials, equipment, machinery and tools, including all costs, charges, dues, demurrage or other outlays involved in transportation.
- (c) The provisions & maintenance of all their staff & labour and their payment, accommodation, transport, fares and other requirements.
- (d) All required first aid, welfare and safety requirements.
- (e) Damage caused to the work and /or construction, plant, materials and consumable stores caused by weather.

5.12.4 Tools, Tackles, lifting machineries, scaffolding, temporary lighting, different vehicular transport etc. required for execution of the whole work will have to be arranged by the Contractor, at their own risk, cost & arrangement, which may be considered, while submitting their rates in the offer.

5.12.5 Rates & amounts quoted by the bidders in the “PRICE SCHEDULE”, include all incidental charges [excluding Goods and Services Tax (GST)], as applicable, and charges for packing, forwarding, loading, handling, carrying to any lead, stacking, transportation, permits, overheads & profit, etc. necessary for the complete services as described in this Bidding Document.

GST, as applicable, shall be paid extra against proper invoice submitted by the Contractor.

The contractor will be required to submit GST compliant invoice with all required details and also be required to file timely and proper return so as to enable KoPT to get due credit against GST paid.

In case of any failure on the above account, GST amount, even if paid by

KoPT, shall be recoverable from the Contractor.

- 5.12.6** All quoted rates will remain firm during the validity period of the bid / offer, including any / all extension thereof, agreed by the bidder.

However, changes in **statutory taxes & bills [other than GST]** will be **adjusted** (within the scheduled completion period), based on documentary evidence.

- 5.12.7** The Bidder should clearly understand that they shall be strictly required to conform to all terms & conditions of the instant Bidding Documents [considering all addenda / corrigenda (if any) issued], as contained in each of its clauses and **plea of “Customs Prevailing”** will not be, in any case, admitted as excuse on their part, for infringing any of the terms & conditions.

No request for change or variation in rates or terms & conditions of the contract shall be entertained on the ground that the successful Bidder has not understood the work envisaged in the instant contract.

5.13 Currencies of Bid

The **Bidders** should quote the prices in **Indian Rupees (Rs)** only.

5.14 Period of validity of bids

- 5.14.1** Bids shall remain valid for the period of **120 days** after the bid submission deadline date (considering extension thereof, if any) as prescribed in **ITB**. A bid, valid for a shorter period, shall be rejected by **KoPT**, treating the same as non-responsive.

- 5.14.2** In exceptional circumstances, prior to the expiration of the bid validity period, **KoPT** may request the bidders to extend the period of validity of their bids. The request and the responses shall be made in writing.

A Bidder may refuse the request, without forfeiting their **Earnest Money Deposit (EMD)**. A Bidder granting the request shall not be required or permitted to modify its bid, except when option to do the same has been specifically granted by **KoPT**, in writing.

5.15 Earnest Money Deposit (EMD)

- 5.15.1** The intending bidders should deposit an amount specified in the **Schedule of Tender (SoT)**, as **Earnest Money Deposit (EMD)**, in accordance with the procedure mentioned therein.

- 5.15.2** Failing to deposit the Earnest Money, in accordance with ITB, shall be rejected by the Employer (KoPT), treating the same as non-responsive.

For exemption of EMD the bidder is required to upload the scanned copy of the certificate from MSME / Micro & Small Enterprises (MSEs) / DIC / SSI / National Small Industries Corporation (NSIC) or any empowered Central / State Govt. authority.

- 5.15.3** Refund of Earnest Money Deposit:

Earnest Money Deposit of the successful bidder shall be retained by KoPT and Earnest Money Deposit of the unsuccessful bidders [including the bidder(s) whose Price Bid would not be opened in line with **ITB**] shall be refunded, without interest, within 2 (two) months from the date of opening of Price Bids or on finalization/acceptance of tender, whichever is earlier.

In case the bid of the **successful bidder** is found acceptable to **KoPT** and contract is awarded with them, the **Earnest Money Deposit** of the **successful bidder (Contractor)** shall be retained by **KoPT** till signing of the **Contract Agreement** by **KoPT** and the Contractor (in accordance with **ITB**), and shall be refunded thereafter.

In case, the successful bid is not found acceptable to **KoPT**, Earnest Money Deposit of the successful bidder shall be refunded after the decision, in this regard, is finalized by **KoPT**.

5.15.4 No interest shall be payable on the account of Earnest Money Deposit in any case.

5.15.5 Forfeiture of Earnest Money Deposit :

The EMD may be forfeited

(a) if a Bidder withdraws their offer within the validity period of the bid / offer; and / or, alters / amends any terms and / or condition and / or quoted rate(s), within the validity period of the offer (excepting when option to do the same has been specifically granted by Kolkata Port Trust , Haldia Dock Complex in writing) making it unacceptable to the Kolkata Port Trust , Haldia Dock Complex;

or,

i) fails to carry out the work or to perform / observe any of the conditions of the contract,

For the purpose of this provision, the validity period (of the bid / offer) shall include any / all extension thereof, agreed by the Bidder in writing. **KoPT** shall also be at liberty to deduct any of their dues from Earnest Money. It should be however be clearly understood that in case of any default in any terms and or condition of the contract after placement of order the same shall be dealt with in accordance with the relevant provisions of contract, including forfeiture of Earnest Money.

D. SUBMISSION OF BIDS AND OPENING OF BIDS (EXCEPT PRICE BID)

5.16 Submission of bids

5.16.1 Bidders shall have to submit their bids [both **Pre-qualification & Techno-commercial Bid** and **Price Bid**] on-line **through MSTC portal only**.

5.16.2 The Bidder should submit (upload) the scanned copies of all the relevant and required documents, statements, filled up formats, certificates, etc. [in accordance with **ITB**], in the aforesaid portal, in support of their **Pr-qualification Criteria and Techno-commercial Bid**.

5.16.3 Before scanning the aforesaid documents, all pages are to be signed by a person duly authorised to sign on behalf of the bidder, pursuant to **ITB**, and are to be embossed with their official seal, owing responsibility for their correctness / authenticity. All pages of the aforesaid documents should be serially marked.

5.16.4 Any inter-lineation, erasures, or overwriting, in the aforesaid scanned & uploaded documents, shall be valid only if they are signed by the aforesaid authorised person.

5.16.5 The Bidder will have to produce the original documents or any additional documents, if asked for, to satisfy **Haldia Dock Complex, Kolkata Port**

Trust.

- 5.16.6** The **Price Bid** comprised the prices only and the same are to be submitted electronically, through the website of **MSTC Ltd.** only. *No **hardcopy of priced “Price Schedule” is required to be uploaded.***

5.17 Techno-commercial offer

- 5.17.1** No techno-commercial deviation and variation will be considered by KoPT, except where the Techno-commercial terms and conditions, will be found as impossible and irrelevant to the bidder.
- 5.17.2** If the Bidder deliberately gives wrong information or conceals any information / fact in their bid, which shall be favourable for acceptance of their bid, fraudulently, then the right to reject such bid at any stage of execution, without any financial liability, is reserved by **KoPT**.

5.18 Priced offer

The Bidder should quote the offered rate appropriately in the PRICE BID, electronically, through the website of **MSTC Ltd.** only. *Price indicated anywhere else, in any other form or manner, would not be considered for evaluation of **Price Bid**.*

5.19 Deadline for submission of bids

- 5.19.1** Bids must be submitted within the closing date & time **indicated in the Schedule Of Tender (SOT)**.
- 5.19.2** **KoPT** may, at its discretion, *extend the deadline for the submission of bids, prior to the closing date & time of e-Tendering*, by amending the Bidding Documents, in accordance with **ITB**, in which case all rights and obligations of **KoPT** and bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

5.20 Late Bids

This e-Procurement System would not allow any late submission of bid, after the closing date & time, as per the **Schedule Of Tender (SOT)** or extension, if any.

5.21 Withdrawal of bids

- 5.21.1** A Bidder may withdraw, substitute, or modify their bid on the e-Procurement System, before the closing date and time specified, but not beyond.
- 5.21.2** No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the bidder on the “**FORM OF TENDER [for Techno-commercial (un-priced) Bid]**.” Or any extension thereof. Modification / Withdrawal of the bid sent through any other means shall not be considered by **KoPT**.
- 5.21.3** Withdrawal of bid during the interval between such closing time on due date and expiring of the bid validity period, may result in forfeiture of EMD in accordance with **ITB**.

5.22 Bid opening [except Price Bid]

- 5.22.1** The bids [**except Price Bids**], will be opened at the date & time, indicated in the **Schedule Of Tender (SOT)**.
- 5.22.2** The on-line bid-opening event may be viewed by the bidders at their remote end, by logging on to the e-Procurement System. A copy of the bid opening

record shall be made available on the e-Procurement System.

E.

EVALUATION OF BIDS

5.23 Confidentiality

- 5.23.1** Information relating to the evaluation of bids and recommendation of contract award shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the contract award.
- 5.23.2** Any attempt by a Bidder to influence KoPT in the examination, evaluation and comparison of the bids, or contract award decisions may result in the rejection of their bid and forfeiture of **EMD**.
- 5.23.3** Notwithstanding **ITB Clause No. 5.24.2**, from the time of bid opening to the time of contract award, if any Bidder wishes to contact KoPT on any matter related to the bidding process, they should do so in writing.

5.24 Clarification of bids

To assist in examination, evaluation & comparison of the bids and qualification of the bidders, the Employer (KoPT) may, at their discretion, ask any bidder for a clarification of their bid. The Employer (KoPT) may also ask any bidder to withdraw any terms/conditions mentioned by them in their offer, which are not in conformity with the terms & conditions specified in the bidding documents. In case any bidder fails to submit required clarification within the time stipulated by the Employer (KoPT), in this regard, the tender would be processed in absence of the clarifications, which may result in disqualification of the corresponding bidder for the instant tender. Any clarification submitted by a bidder, which is not in response to a request by the Employer (KoPT), shall not be considered. The Employer's (KoPT's) request for clarification and the response shall be in writing.

No change in the prices or substance of the bid shall be sought, offered or permitted, nor will the bidder be permitted to withdraw their bid before expiry of the validity period of the bid.

5.25 Deviations, reservations and omissions

During the evaluation of bids, the following definitions apply:

- (a) "Deviation" is a departure from the requirements specified in the bidding documents ;
- (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding documents ; and
- (c) "Omission" is the failure to submit part or all of the information or documentation required in the bidding documents.

5.26 Responsiveness of bids

- 5.26.1** Responsiveness of a bid would be determined on the basis of the contents of the bid itself, and clarification(s) in accordance with **ITB**.
- 5.26.2** A substantially responsive bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would
 - i) affect in any substantial way the scope, quality, or performance of the work specified in the Contract; or

- ii) limit in any substantial way, inconsistent with the Bidding Documents, KoPT's rights or the bidder's obligations under the proposed contract; or
- (b) if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
- 5.26.3** Bidders shall not contain the following information / conditions to consider them responsive :
 - (b) Either direct or indirect reference leading to reveal the prices of the bids in the Techno-commercial offers;
 - (c) Adjustable prices, other than the provisions stated in **ITB**.
- 5.26.4** If a bid is not substantially responsive to the requirements of the bidding documents, it shall be rejected by KoPT and may not subsequently be made responsive by the bidder, by correction of the material deviation, reservation, or omission.
- 5.27 Nonconformities, errors and omissions**
 - 5.27.1** During examination, evaluation & comparison of the bids and qualification of the bidders, the Employer (KoPT) may, at their discretion, ask any bidder for submitting any document(s) [in case of shortfall in required documents (relating to capacity or otherwise)]. In case any bidder fails to submit required documents within the time stipulated by the Employer (KoPT), in this regard, the tender would be processed in absence of the documents, which may result in disqualification of the corresponding bidder for the instant tender.

Any document submitted by a bidder, which is not in response to a request by the Employer (KoPT), shall not be considered. The Employer's (KoPT's) request for submission of further document(s) shall be in writing.
 - 5.27.2** **KoPT** shall examine the bids [including the further documents / clarifications received in accordance with **ITB**] to confirm that all documents requested in **ITB** have been provided and to determine the completeness of each document submitted.
 - 5.27.3** Provided that a bid is substantially responsive, **KoPT** may waive any nonconformities or omissions in the bid that do not constitute a material deviation.
- 5.28 Examination of Pre-qualification Criteria**
 - 5.28.1** At first, the contents of the documents, submitted in support of the Pre-qualification Criteria [including the further documents / clarifications received in accordance with **ITB**] will be scrutinized and evaluated.
 - 5.28.2** KoPT may, at their discretion, seek any other detail(s)/document(s), in subsequent course, to ascertain and get confirmed about the competence of the bidder. In case any bidder fails to submit required detail(s)/document(s) within the time stipulated by the Employer (KoPT), in this regard, the tender would be processed in absence of the documents, which may result in disqualification of the corresponding bidder for the instant tender. While evaluating Pre-qualification Criteria, regard would be paid to National Defence and Security considerations of the Indian Government.
 - 5.28.3** In case it is found that the Pre-qualification Criteria has not been fulfilled by the bidder or otherwise their participation has not been found acceptable to **KoPT**, the respective bid will be treated as non-responsive and "Price

Bid” of the respective Bidder will not be considered further.

5.29 Examination of Techno-commercial offer

- 5.29.1** After scrutiny of the **Pre-qualification Criteria, Techno-commercial Bids** of the Pre-qualified bidders [as indicated above] will be scrutinized & evaluated.
- 5.29.2** **KoPT** shall examine the bid to confirm that all terms and conditions specified in the **Technical Specification (Section VI), GCC (Section VII)** and **SCC (Section VIII)** have been accepted by the bidder without any material deviation or reservation or omission.
- 5.29.3** If on examination of the “**Techno-commercial Bid**” of pre-qualified bidders, it is found that they have not accepted all Techno-commercial terms & conditions of the Bidding Documents [considering all addenda / corrigenda, issued], “**Price Bid**” part of such bidder(s) will not be opened. “**Price Bid**” part of other bidder(s) will be opened subsequently as per procedure. Decision of **KoPT** on this matter shall be final.

5.30 Opening of Price Bid

PRICE BIDS of the bidders, who qualifies in the “Pre-qualification & Techno-commercial Bid”, will be opened on a later date, upon due intimation to the concerned bidders at their address furnished by them in their bid.

The on-line price-bid opening event may be viewed by the bidders at their remote end, by logging on to the e-Procurement System. A copy of the price-bid opening record shall be made available on the e-Procurement System

5.31 Comparison & Evaluation of Price-Bid and selection of Successful Bidder

- 5.31.1** While evaluating the Price Bids, the Price quoted by the Bidders against all items of the **Price Schedule** shall be taken into account and the **TOTAL PRICE**, which would be arrived at, by adding quoted prices of all items of the **Price Schedule**, will be considered for evaluation. Selection of the successful bidder will be made on the basis of the “**lowest TOTAL PRICE**” thus arrived.
- 5.31.2** In case it is found that the quoted “**TOTAL PRICE**” is same for two or more bidders and their bids become the lowest, the respective bidders will be given chance to submit their fresh Price Bid, subject to the condition that the fresh rate so quoted must be less than the rate quoted by the respective bidders earlier. Selection of the successful bidder will be made on the basis of the revised “**lowest TOTAL PRICE**” thus obtained.

5.32 KoPT’s right to accept any bid and to reject any or all bids

KoPT reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

E. AWARD OF CONTRACT

- 5.33** Subject to **ITB Clause No. 5.33.1**, **KoPT** shall award the contract to the Bidder whose offer has been determined to be the lowest evaluated bid [as per **ITB Clause No. 5.32**] and is substantially responsive to the Bidding Documents.
- 5.34** **Notification of award**

Prior to the expiration of the period of bid validity or extended validity in accordance with **ITB**, **KoPT** shall notify the **Successful Bidder**, in writing, that their bid has been accepted. The notification letter (hereinafter called the “**Letter of Acceptance**”) will be treated as “**Order Letter**” and will constitute the formation of the contract. Such order letter shall specify the “**Contract Price**” in line with **SCC Clause No. 11.1.4 a**).

5.35 Signing of contract agreement

5.35.1 After placement of order, **contract agreement** [as per the form furnished in **Section- XI**] should be executed between **Kolkata Port Trust** and the **Contractor (Successful Bidder)**. In this respect, within a week of receipt of intimation regarding acceptance of their bid, the successful bidder shall have to submit, at their cost, required **Stamp Paper** [Non-judicial Stamp Paper of worth not less than **Rs. 50.00**] & **dummy papers** (for three sets).

Immediately after receipt of the above papers & documents, **KoPT** will send three sets of **contract agreement form** [one set printed on Stamp Paper & dummy papers and two sets printed on dummy papers], photocopy of **one set of documentary transactions between them and KoPT** (till finalisation & award of the Contract) and **Contract Documents** [incorporating all accepted changes and addenda / corrigenda issued, if any], duly signed by the representative of **KoPT** at appropriate places on each pages.

Within a week, thereafter, the Contractor (Successful Bidder) shall have to return **Contract Agreement forms** (three sets) [after affixing their common seal], the set of **documentary transactions** and **Contract Documents**, duly signed by them at appropriate places on each page.

5.35.2 The **contract agreement form** & **Contract Documents** should be signed by the authorized persons of the Contractor, authorized in this respect.

5.35.3 After receipt of the **contract agreement forms** (three sets), duly signed by authorised person of **KoPT** & authorized person of the Contractor (Successful Bidder), the same shall be kept under **KoPT**’s custody, after affixing the Common Seal of **KoPT**.

One copy of such **executed contract agreement** (on dummy paper), along with one photocopy of signed **documentary transactions** and **Contract Documents** will be handed over to the Contractor for their record & future reference.

5.35.4 Until such contract agreement is executed, the other documents referred to the definition of the term “Contract” [**GCC Clause**], shall collectively be the contract.

SCOPE OF WORK

- i) The successful bidder has to supply & deliver all diving gears/equipment mentioned in the price schedule of the instant tender on hiring basis at Lock Entrance, HDC, KoPT within 7 days from the date of receipt of order.
- ii) After acceptance of diving gears/equipment through inspection, as per Clause No. 3.8, the same would be kept under control of Port Diving Unit of Marine Operations Division, HDC, KoPT, for their utilization for the period of hiring, as mentioned in Clause No. 3.9.
- iii) All diving gears/equipment to be hired from the successful bidder, must have to perform with full workability to satisfy the requirement of Port Diving Unit, HDC, KoPT. In this regard, observation of Port Diving Unit would be final.
- iv) Breakdown & Repairing of diving gears/equipment :
- v) During continuance of contract, in case of breakdown of any diving gear/equipment, if reported by Port Diving Unit, HDC, KoPT, the said diving gear/equipment shall have to be repaired/ replaced within 2 (two) days from the date of intimation of such breakdown by the successful bidder at their own cost & arrangement.
- vi) After completion of hiring period (as mentioned in Clause No. 3.9) all diving gears/equipment shall have to be taken back by the successful bidder at their own cost & arrangement.

SECTION VII

GENERAL CONDITIONS OF CONTRACT (GCC)

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General Conditions of Contract (GCC)

A. GENERAL PROVISIONS

7.1 Definitions

In the conditions of contract (“these conditions”), which includes particular conditions and these general 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.

7.1.1 The Contract:

- a) **“Contract”** means and includes these **bidding documents** in entirety (including all Addenda and Corrigenda, if any), the **specification**, the **drawings**, the **PRICE SCHEDULE**, the **bid / offer**, the **Letter Of Acceptance**, the **Contract Agreement** (when Contract Agreement would be completed in all respect) and such further documents as may be expressly incorporated in the **Letter Of Acceptance** or **Contract Agreement** (when Contract Agreement would be completed in all respect).
- b) **“Contract Agreement”** means the executed Contract Agreement referred to in **ITB Clause No. 5.37 [Signing of Contract Agreement]**.
- c) **“Contract documents”** means the documents listed in the Contract Agreement, including any amendments thereto.
- d) **“Letter Of Acceptance (LOA)”** or **“Work order”** or **“Order letter”** means the formal acceptance of the bid (and placement of order with the successful bidder), issued by or on behalf of the Employer, including any adjustments or variation to the bid agreed between the Employer and the successful bidder and includes its enclosure(s), annexure(s), etc., if any.
- e) **“Specification”** means the specification of the work included in the contract and any modification thereof or addition thereto made under **GCC Clause No. 7.12 [Additions and alterations]** or submitted by the Contractor and approved by the Engineer, in writing.
- f) **“Drawings”** means **all drawings, calculations and technical information**, etc., provided by the Engineer to the Contractor under the contract and all **drawings, calculations, samples, patterns, models**, etc., including modification, if any, and other **technical information & manuals** of a like nature, submitted by the Contractor and approved by the Engineer.
- g) **“Tender”** or **“Bid”** means the proposal (priced offer), along with all supporting documents, submitted by the bidder to the Employer for consideration.
- h) **“Price Schedule”** means the priced schedule of items, forming part of the bid.
- i) **“Tenderer”** or **“Bidder”** means the individual firm, who submits the bid, duly filled up and signed, along with all the required documents and payment instruments, in strict compliance of the conditions /

requirements stipulated in these bidding documents.

- j) “Contract data” means the pages completed by the Employer entitled **CONTRACT DATA**.

7.1.2 Parties and persons :

- a) “**Party**” means the **Employer** or the **Contractor**, as the context requires.
- b) “**Employer**” or “**Board**” or “**Trustees**” or “**Kolkata Port Trust**” or “**KoPT**” means the Board of Trustees for the Port of Kolkata (Calcutta), a body corporate under **Section 3 of the Major Port Trusts Act, 1963** (as amended from time to time), including their successors, representatives and assigns.
- c) “**Contractor**” or “**Successful bidder**” or “**Successful tenderer**” means the person or persons, firm or company, whose bid / offer has been accepted by the Employer and is named as such in the Contract Agreement or his representative(s), who is/are duly authorised to deal the contract.
- d) “**Contractor’s representative**” means the person(s) named by the Contractor in the contract or appointed from time to time by the Contractor, under **GCC Clause No. 7.21 [Contractor’s personnel and Contractor’s representative]**, who acts on behalf of the Contractor.
- e) “**Sub-contractor**” shall mean a person or persons, firm or company to whom a part of the work has been sub-contracted by the Contractor, with prior consent of the Employer.
- f) “**Contractor’s personnel**” means the Contractor’s representative and all personnel whom the Contractor utilises on site, who may include 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 work.
- g) “**Engineer**” means the person appointed by the Employer to act as the Engineer for the purposes of the contract and named in the **Contract data**, or other person appointed from time to time by the Employer and notified to the Contractor under **GCC Clause No. 7.18 [Replacement of the Engineer]**.
- h) “**Engineer’s Representative**” means any sub-ordinate Engineer or assistant to the Engineer or any other official appointed from time to time by the Engineer to perform the duties set forth in **GCC Clause Nos. 7.13 to 7.15** hereof.
- i) “**Engineer-in-charge**” means employee of KoPT, authorised by the Engineer to look after the physical execution of the contract, at site level.
- j) “**Haldia Dock Complex**” or “**HDC**” means a Dock Complex situated at Haldia, under **Kolkata Port Trust**.
- k) “**Chairman**” means the Chairman of the Board of Trustees for the Port of Kolkata (Kolkata Port Trust) and includes the person appointed to act in his place under Sections 14 and 14A of the Major Port Trusts Act, 1963.

- l) **“Deputy Chairman”** means the Deputy Chairman, Haldia Dock Complex and includes the person appointed to act in his place.
- m) **“General Manager (Engineering)”** means the Officer appointed to take charge of Plant & Equipment Division, Infrastructure & Civic Facilities Division and Materials Management Division of HDC, under the supervision of the Deputy Chairman, HDC.
- n) **“Senior Deputy Manager (P&E)”** means the Officer of Plant & Equipment Division of HDC, reporting to the General Manager (Engineering).

7.1.3 Dates and periods:

- a) **“Duration of hiring”** means the time of hiring /period of execution notified under 7.65 [Duration of hiring].
- b) **“Month”**, for the purpose of this contract, shall mean the period starting from the date of commencement in any month to the previous date of the following month, as per English Calendar.
- c) **“Week”**, for the purpose of this contract, shall mean any period of 7 (seven) consecutive English Calendar Days.
- e) **“Day”**, for the purpose of this contract, means English Calendar Day.

7.1.4 Money and payments:

- a) **“Contract price”** or **“Contract value”** means the sum named in the **“Letter of Acceptance (LOA)”** [excluding GST] of the bid /offer of the Contractor, subject to such additions thereto and deductions therefrom, as may be made by the Engineer, under the provisions contained in this bidding document.
- b) **“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.
- c) **“Foreign Currency”** means the currency other than Indian Currency.

7.1.5 Work:

- a) **“Work”** means the work to be executed in accordance with the contract and includes authorised **“Extra work”**, **“Excess work”** and **“Temporary work”**.
- b) **“Temporary work”** means all temporary work of every kind required in or about the execution, completion or maintenance of the work and includes (without thereby limiting the foregoing definitions) all temporary erections, scaffolding, ladders, timbering soaking vats, site offices, cement and other godowns, platforms and bins for stacking building materials, gantries, temporary tracks and roads, temporary culverts and mixing platforms.
- c) **“Excess work”** means the required quantities of work, in excess of the provision made in the contract, against any item of the “Price Schedule”.

- d) **“Extra work”** means those work, required by the Engineer for completion of the contract, which were not specifically and separately included in the schedule of items of the work (i.e. “Price Schedule”) of the bidding document.
- e) **“Related Services”** means the services incidental to the supply of goods / contract job, such as insurance, installation, training, initial maintenance and other obligations of the Contractor, under the contract.

7.1.6 Other definitions

- a) **“Constructional plant”** means all appliances or things, of whatsoever nature, required in or about the execution, completion or maintenance of the work or temporary work and includes (without thereby limiting the foregoing definition) all machinery and tools, but does not include materials or other things intended to form or forming part of the permanent work.
- b) **“Site”** means the land and other places, on, under, in or through which the contract is to be executed or carried out and any other lands or places provided by the Employer for the purpose of the contract.
- c) **“Excepted Risks”** means riot, in so far as it is uninsurable, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), Civil War, rebellion, revolution, insurrection or military or usurped power or use or occupation by the Trustees of any portion of the works in respect of which a certificate of completion has been issued (all of which are herein collectively referred to as the excepted risks).
- d) **“Approved / approval”** means approval in writing.
- e) **“Test on Completion”** means such tests, prescribed by the applicable Design Standard, codes and described in the bidding document, to be performed by the Contractor before the equipment / items / installations are supplied, delivered and taken over by the Employer.
- f) **“Defect Liability Period (DLP)”** means the period defined in the GCC Clause No. 7.67.
- g) **“Force Majeure”** is defined in GCC Clause No. 7.86 [Definition of Force Majeure].

7.2 **Contract documents**

- 7.2.1 The several documents forming the contract are to be taken as mutually explanatory of one another and should anything appear in one, which is not described in the other, no advantage shall be taken of any such omission.
- 7.2.2 In case, any discrepancies or inconsistencies however appear or should any misunderstandings arise as to the meaning and of the specifications or drawings or as to the dimensions or the quality of the materials or the due and proper execution of the work or as to the measurement or quality and valuation of the work executed under this contract or as extra thereupon, the same shall be explained by the Engineer or his authorised representative.
- 7.2.3 The explanation of Engineer or his authorised representative shall be final and binding upon the Contractor and the Contractor shall execute the work according to such explanations, and without extra charge or deductions and

do all such work and things as may be necessary for the proper execution of the contract as implied by the specification and drawings, even though such work and things are not specifically shown and described therein.

7.3 **Interpretations**

7.3.1 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;
- d) **“written”** or **“in writing”** means hand-written (manuscript), type-written, printed or Electronically made, and resulting in a permanent record, under or over signature and seal, as the case may be;
and
- e) the word “tender” is synonymous with “bid”, and “tenderer” with “bidder” and the words “tender documents” with “bidding documents”.

7.4 **All Drawings are Trustees’ property**

7.4.1 The Drawings, referred to in the Special Conditions of Contract / Technical Specification / Price Schedule, if and as applicable, shall be furnished by the Engineer to the Contractor, free of cost, for his use on the work, but these shall remain the property of the Trustees and hence, the Contractor shall return them to the Engineer or his Representative on completion of the work, if not torn or mutilated on being regularly used at site.

7.5 **Language**

7.5.1 The contract as well as all correspondence and documents relating to the contract, exchanged between the Contractor and the Employer/Engineer, shall be written in **English Language only**. If any documents/manuals/printed literature/drawings is submitted by the Contractor in other language(s), the same should be accompanied by an accurate translation of the relevant pages in the English language. In that case, for the purposes of interpretation of the contract, such translation shall govern.

7.5.2 The Contractor shall have to bear all costs of translation to the English Language and all risk of the accuracy of such translation, for documents provided by the Contractor.

7.6 **Notices**

7.6.1 Any notice, given by one party to the other, pursuant to the contract, shall be in writing, to the address specified in the **Contract data**. The term “in writing” means communicated in written form, with proof of receipt.

7.6.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

7.7 **Governing Law**

7.7.1 The contract shall be governed by and interpreted in accordance with the relevant Indian Acts [considering latest amendment thereof], as applicable,

within the jurisdiction of the Honourable High Court of Kolkata [Calcutta High Court] , India, including the following Acts:

- i) The Indian Contract Act, 1872.
- ii) The Major Port Trust Act, 1963.
- iii) The Workmen's Compensation Act, 1923.
- iv) The Minimum Wages Act, 1948.
- v) The Payment of Wages Act, 1936.
- vi) The Payment of Bonus Act, 1965.
- vii) The Payment of Gratuity Act, 1972.
- viii) The Equal Remuneration Act, 1976.
- ix) The Employees Provident Fund Act, 1952.
- x) The Employees State Insurance Act, 1948 & The Employees State Insurance (Amendment) Act, 1989.
- xi) The Contract Labour (Regulation & Abolition) Act, 1970; Rules 1971.
- xii) Child Labour (Prohibition & Regulation) Act, 1986.
- xiii) The Maternity Benefits Act, 1961.
- xiv) Interstate Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979.
- xv) The Dock Workers (Regulation of Employment) Act, 1948.
- xvi) The Dock Workers (Safety, Health & Welfare) Act, 1986.
- xvii) The Indian Arbitration and Conciliation Act, 1996 [considering its latest amendment in 2015].

7.7.2 Unless otherwise specified, all the laws / rules / acts, etc., mentioned in different clauses of this bidding document, should be considered as laws / rules / acts, etc. applicable in India.

7.7.3 The Contractor shall indemnify KoPT for any proceeding taken or commenced by any authority against the Employer for any contravention of any of such laws, bye laws, rules, regulations, orders, etc., by the Contractor or their personnel / workmen / agent / supplier, etc. If, as a result of the Contractor's failure, negligence, omission, default or non-observance of any provisions of any law, bye law, rule, regulation, order, etc., the Employer is called upon by any authority to pay or reimburse or is required to pay or reimburse any amount, the Employer shall be entitled to deduct the same from any amount due or that may become due to the Contractor under this contract or any other contract or by any other means or may otherwise recover from the Contractor any sum which KoPT is required or called upon to pay or reimburse on behalf of the Contractor.

7.7.4 The Contractor shall indemnify KoPT for any proceeding taken or commenced by any authority against the Employer for any contravention of any of such laws, bye laws, rules, regulations, orders, etc., by the Contractor or their personnel/workmen/agent/supplier, etc. If, as a result of the Contractor's failure, negligence, omission, default or non-observance of any

provisions of any law, bye law, rule, regulation, order, etc., the Employer is called upon by any authority to pay or reimburse or is required to pay or reimburse any amount, the Employer shall be entitled to deduct the same from any amount due or that may become due to the Contractor under this contract or any other contract or by any other means or may otherwise recover from the Contractor any sum which KoPT is required or called upon to pay or reimburse on behalf of the Contractor.

7.8 Patent Rights

- 7.8.1 The Contractor shall fully indemnify KoPT against any action, claim or demand, costs or expenses arising from or incurred by reason of any infringement or alleged infringements of letters, patents, design, trademark or name, copyright or other protected rights in respect of any machine, plant, work, materials or things, system or methods of using, fixing working or arrangement used for fixed or supplied by the Contractor in India, or elsewhere.
- 7.8.2 All payments, or otherwise shall be deemed to be included by the Contractor in the prices named in the bid and shall be paid by them to whom they may be payable.
- 7.8.3 In the event of any claim being made or action brought against KoPT in respect of any such matter as aforesaid, the Contractor shall be immediately notified thereof and they shall with the assistance, if they so require, of KoPT but at the sole expense of the Contractor conduct all negotiations for the settlement of the same or any litigation that may arise there from, provided that the conduct of such negotiations or litigations shall be conditional upon the Contractor giving to KoPT such security, as shall from time to time, by reasonably required by KoPT to recover the ascertained or agreed amount, as the case may be, of any compensation, damages, expenses and cost, which might be payable by the Trustees in respect of or as a result of any such negotiation or litigation.

7.9 Stamp duty & other expenses

- 7.9.1 All the costs, charges and expenses to be incurred in connection with **Contract Agreement, Indemnity Bond, Bank Guarantees, Integrity Pact**, etc., including stamp duty, shall be borne by the Contractor.

7.10 Indemnity

- 7.10.1 Notwithstanding that all reasonable and proper precautions may have been taken by the Contractor, at all times during the progress of the work, the Contractor shall, nevertheless, be wholly responsible for all damages, whether to the works themselves or to any other property of KoPT or to the lives, persons, property of others during the progress of the work.
- 7.10.2 In case any damage occurs to the existing structure due to the Contractor's operation, the same shall be made good by the Contractor, at their own risk and cost. The areas, which are likely to be unsafe for use, shall be barricaded and all necessary precautionary measures, like displaying notices, shall be taken by the Contractor, during the contract period.
- 7.10.3 In case any material, spare parts, components, sub-assemblies, accessories, etc., related to the work (under the scope of the Contractor), is required to be taken out of the Dock premises by the Contractor, for some specialised servicing, repairs, overhauling, etc. or for any other reason whatsoever, the

Contractor shall have to obtain permission from the Employer. For this the Contractor shall have to submit an “**Indemnity Bond**” [in the form furnished in **Section-XI**].

7.11 Employer’s lien

- 7.11.1 All constructional plant, temporary work and materials, when brought to the site by the Contractor, shall be deemed to be the property of the Employer, who will have lien on the same, until the satisfactory completion of the work and shall only be removed from the site, in part or in full, with the written permission of the Engineer or his Representative.
- 7.11.2 The Employer shall have a lien on and over all or any money that may become due and payable to the Contractor under this contract or any other contract or from any amount lying with them or under their control and in respect of any debt or sum that may become due and payable by the Employer to the Contractor, either alone or jointly with another or other and either under this contract or under any other contracts or transaction of any nature whatsoever between the Employer and the Contractor.

7.12 Additions and alterations

- 7.12.1 KoPT shall have power and authority, from time to time and at all times, to make amendments or additions or alterations or changes in the **Technical Specification** and give such further instructions and directions, as may appear necessary and proper to KoPT for the guidance of the Contractor and good & efficient execution of the work.
- 7.12.2 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 **Technical Specification**.
- 7.12.3 KoPT may also vary or alter the levels or positions of any of the work contemplated by approved specification or may order any of the work contemplated thereby to be omitted, with or without 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.

In this connection, KoPT may increase or decrease or split the quantity of work included in the contract or execute additional work of any kind necessary for good & efficient execution of the work.
- 7.12.4 The Engineer shall have the power to order for the above amendments (additions/alterations/changes, etc.) 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 amount accepted under the contract based on the rate(s) available in the contract. Where the rate(s) is/are not available in the contract, such difference in the cost shall be determined by the Engineer, taking into account the market rate and labour cost at site for similar work, backed up by rate analysis, (to be submitted by the Contractor and agreed upon between the Contractor and KoPT).

In the event of disagreement, KoPT shall fix such rates or prices as shall, in their opinion, be reasonable and proper having regard to the circumstances.

B. **THE ENGINEER**

7.13 Instructions of the Engineer or Engineer's Representative

7.13.1 The Contractor shall execute, complete and maintain the works in terms of the contract to the entire satisfaction of the Engineer and shall comply with the Engineer's direction on any matter whatsoever. However, the Engineer shall exercise his discretion impartially, within the terms of the contract and have regard to all the circumstances.

The Contractor shall take instructions from the Engineer and subject to limitation indicated in **GCC Clause No. 7.16.1** hereof, from the Engineer's Representative.

7.14 Engineer's power and authority

7.14.1 The Engineer shall have full power and authority:

- a) to supply to the Contractor, from time to time, during the progress of the works, such further drawings and instructions as shall be necessary for the purpose of proper and adequate execution and maintenance of the works and the Contractor shall carry out and be bound by the same.
- b) to alter or modify the specification of any material and workmanship and to inspect the work at any time.
- c) to order for any variation, alteration and modification of the work and for extra works.
- d) to issue certificates as per contract.
- e) to settle the claims & disputes of the Contractor.
- f) to grant extension of completion time.

7.15 Power of Engineer's Representative

7.15.1 The Engineer's Representative shall:

- a) watch and supervise the work.
- b) test and examine any material to be used or workmanship employed in connection with the work.
- c) have power to disapprove any material and workmanship not in accordance with the contract and the Contractor shall comply with his direction in this regard.
- d) take measurements of work done by the Contractor for the purpose of payment or otherwise.
- e) order demolition of defectively done work for its reconstruction all by the Contractor at his own expense
- f) have powers to issue alteration order not implying modification of design and extension of completion time of the work.

And

- g) have such other powers and authorities vested in the Engineer, which

have been delegated to him, in writing, by the Engineer under intimation to the Contractor.

7.16 Limitation of Engineer's Representative's power

7.16.1 Provided always that the Engineer's Representative shall have no power:

- a) to order any work involving delay or any extra payment by the Trustees,
 - b) to make variation of or in the work,
- And
- c) to relieve the Contractor of any of his duties or obligations under the contract.

7.17 Engineer's over-riding power

7.17.1 Provided also as follows:

- a) Failure of Engineer's Representative to disapprove any work or materials shall not prejudice the power of the Engineer thereafter to disapprove such work or materials and to order the pulling down, removal, breaking-up thereof and re-constructing at the Contractor's cost and the Contractor shall have no claim to compensation for the loss sustained by them.
- b) If the Contractor shall be dissatisfied by reason of any decision of the Engineer's Representative, they shall be entitled to refer the matter to the Engineer, who shall thereupon confirm, reverse or vary such decision which will be final, conclusive and binding on the parties.
- c) Any written instructions or written approval given by the Engineer's Representative to the Contractor, within the terms of delegation of power and authority vested in the Engineer to his representative, in writing, shall bind the Contractor and the Trustees as though it had been given by the Engineer, who may, from time to time, make such delegation.

7.18 Replacement of the Engineer

7.18.1 If the Employer intends to replace the Engineer, the Employer shall give notice to the Contractor in this respect.

7.19 Determinations

7.19.1 Whenever these conditions provide that the Engineer shall proceed, in accordance with this clause, to agree or determine any matter, the Engineer shall consult with each party, 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 both parties of each agreement or determination, with supporting particulars **within 28 (twenty-eight) days** from the receipt of the corresponding claim or request, except when otherwise specified. Each party shall give effect to each agreement or determination, unless and until revised under **GCC Clause Nos. 7.94 to 7.98 [Claims, Disputes and Arbitration]**.

C. THE CONTRACTOR

7.21 Contractor's personnel and Contractor's representative

7.21.1 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 of work, 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 protection of the environment.

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

7.21.2 The Contractor shall have to communicate the names of their officials/representatives, authorized by them through **Power of Attorney** (specimen signature of such authorized representative should be attested), to make all correspondences and sign all documents/papers in relation to this contract.

Written orders or instructions, which the Employer may issue to such authorized officials/ representatives of the Contractor, shall be deemed to have been given to the Contractor.

7.21.3 In case any of such authorised persons fails to act as Contractor's representative, the Contractor shall similarly communicate the name and particulars of another suitable person for such authorization.

The Contractor shall have to notify the Engineer, immediately after revoking the appointment of the Contractor's representative and appointment of a replacement.

7.21.4 If any of the Contractor's representatives/officials is required to be temporarily replaced during the period of contract, the name of the person temporarily authorised [by any one of the authorised officials/representatives, authorized earlier through **Power of Attorney**], shall have to be notified. Specimen signature of such temporarily authorised representative(s) should be attested [by the said authorised official/representative].

7.22 Assignment and sub-contracting

7.22.1 The Contractor shall not, directly or indirectly, transfer, assign, sublet or sub-contract the whole of the work.

Unless otherwise stated in the contract, the Contractor shall not, directly or indirectly, transfer, assign, sublet or sub-contract any part of the work without prior consent of the Engineer. Any such consent shall not relieve the Contractor from any of their liabilities or obligations under the contract and they shall be responsible for :

- a) the acts, defaults and neglect of any Sub-contractor, their agents, servants or workmen as fully as if these were the acts, defaults or

- neglects of the Contractor, their agents, servants or workmen,
- b) their full and entire responsibility of the contract and active superintendence of the work by them despite being sublet.

Provided that the Contractor shall not be required to obtain such permission for:

- i) the provision of labour engaged on piece-work basis/daily rate basis,
- ii) the purchase of materials/services which are in accordance with the standards specified in the contract,
- Or
- iii) the sub-contracting of any part of the work, for which the Sub-contractor is named in the contract.

The Contractor shall be responsible for observance, by all Sub-contractors, of labour laws applicable in India (for the portion of work that would be executed in India) and all other provisions of the contract.

- 7.22.2 No **participating bidder** [in connection with the instant tender] will be allowed to act as a **Sub-contractor** of the successful bidder (Contractor).
- 7.22.3 In the event of the Contractor contravening aforesaid condition [**GCC Clause No. 7.22.2**], the Employer shall be entitled to terminate the contract forthwith and award a fresh contract to some other parties at **risk and cost of the Contractor**, who shall be liable for any loss or damage, which KoPT may sustain in consequence to arising out of such replacement of the Contractor.
- 7.22.4 The Contractor shall not assign their right and interest in these presents nor assume a fresh partner or partners, dissolve the partnership existing between them in reference to this contract, without the prior written permission of the Employer.

7.23 Access to site

- 7.23.1 The Contractor shall have to abide by the **rules and regulations of Kolkata Port Trust (KoPT)** in respect of entry / exit and movement in the dock premises.
- 7.23.2 Necessary **Gate Pass / Dock Entry Permit**, for entering into the Dock area, will be issued to the personnel of the Contractor [including that of approved Sub-contractor(s)] directly connected with the work, **on chargeable basis** [as per the extant “**Scale of Rates**” of KoPT, available at <http://www.kolkataporttrust.gov.in/> of **Kolkata Port Trust**], on receipt of a formal written request.

However, for issuing such Gate Pass, the following would be required:

- i) **For Indian nationals:** A photocopy of the Voter’s Identity Card/any other Photo Identity Card.
- ii) **For foreign nationals (excluding from Nepal and Bhutan):** **Permission in the form of “No objection” for entering Haldia Dock**, from the office of the **Superintendent of Police, Purba Medinipur, West Bengal, India**, which acts as the **District Registration Office** for foreigners.

Dock Entry Permits shall not be issued to the mentioned foreign

nationals without the aforesaid permission. The aforesaid “No objection”, along with photocopies of Passport and Visa of the foreign national, has to be submitted to the Administration Division of HDC, KoPT, with an application for obtaining Dock Entry Permit(s).

7.23.3 The Contractor will be fully responsible for any injury (whether fatal or otherwise) to their personnel [including that of approved Sub-contractor(s)], for any loss or damage to property or for any other loss, damage, costs and expenses, whatsoever caused, which, but for the granting of such permission, would not have arisen.

7.23.4 The Contractor will be liable to indemnify the Employer against any loss or damage to the property of the Employer or neighbouring property, which may be caused due to any act of the Contractor or their personnel [including that of approved Sub-contractor(s)].

7.23.5 **No photograph within the Dock Area** shall be taken by the Contractor, without prior permission of the Engineer.

7.24 **Transportation of materials**

7.24.1 All materials, spare parts, tools, tackles, service equipment, including consumables, required under this contract, will have to be packed, securely placed and protected by the Contractor during transportation. The Contractor will be held responsible for the inefficient packing, storing and protection of the materials.

7.25 **Contractor's equipment**

7.25.1 The Contractor shall be responsible for all the equipment of the Contractor. When brought on to the site, the Contractor's equipment shall be deemed to be exclusively intended for the execution of the work. The Contractor shall not remove from the site any major items or Contractor's equipment without the consent of the Engineer. However, consent shall not be required for vehicle(s) transporting goods or Contractor's personnel off site.

7.26 **Supply of water and Electricity**

7.26.1 **Supply of water:**

Drinking water supply at the **Contractor's site office, store, workshop, assembly/erection yard, etc.** will be given **on chargeable basis**. For this, the Contractor shall have to make **all arrangements, including installation of Water Meter and laying of pipelines from the source(s) identified by KoPT, at their cost**. The Contractor will be responsible for maintenance and calibration of such water meter also. Billing against water supply will be done in line with SCC.

KoPT do not guarantee uninterrupted supply of water and the Contractor shall not be compensated for any delay or irregularity in supplying water. The Contractor shall have to arrange for the supply of water at his own cost during such periods.

However, water supply, if required for the **actual work (including erection, commissioning & cleaning work) at the site only** and / or **maintenance, repair & cleaning work** (required to be carried out at site during the “Defect Liability Period”) will be provided free of cost. The Contractor shall have to make **all arrangements for laying of pipelines from the source(s)**

identified by KoPT, at their cost.

7.26.2 Supply of Electricity:

Supply of Electricity at the **Contractor's site office, store, workshop, assembly / erection yard, etc.** will be on **chargeable basis**. The Contractor shall have to make all arrangements, including **installation of Energy Meter and laying of Cables from the source(s) identified by KoPT, at their cost.** The Contractor will be responsible for maintenance and calibration of such Energy Meter also. Billing against **electricity charges** will be done in line with SCC.

KoPT do not guarantee uninterrupted supply of Electricity and the Contractor shall not be compensated for any delay or irregularity in supplying Electricity. The Contractor shall have to arrange for Electricity at his own cost during such periods.

However, Power supply, required for the **actual work (including erection and commissioning) at the site only and/or maintenance and repair** (required to be carried out at site during the "Defect Liability Period") will be provided free of cost. The Contractor shall have to make all arrangements for **laying of Cables from the source(s) identified by KoPT, at their cost.**

7.27 Use of ground and land/covered space for Contractor's establishment

7.27.1 The Contractor shall be allowed to use a suitable land (open space), which in the opinion of KoPT may be absolutely necessary for the proper and efficient execution of works. For this, a token lump sum licence fee of **₹10.00 per month or part thereof** will be charged during pendency of the contract and extension thereof, if any.

7.27.2 On completion of work or termination of the contract, the Contractor shall have to clear away all their tools, plants, rubbish and other materials, **within a fortnight** and hand over vacant and peaceful possession of the same to KoPT, in a tidy and clean condition. The same license fee (₹10.00 per month or part thereof) will be applicable for this additional period (if any) for clearing the space. If the Contractor fails to clear the space and handover the same to the Employer in a clean and tidy condition, within the period mentioned above, KoPT's "Schedule of Rate" will be applicable for the period beyond that.

7.27.3 The Contractor shall be allowed to erect any temporary structures on this land [as stated in **GCC Clause No. 7.27.1**] for **office and / or store and / or workshop**, etc. and make all suitable arrangement for water supply, Electricity supply and sanitary arrangements for the same, at their own cost.

7.27.4 In case the Contractor is interested in taking **covered space, office room**, etc. of KoPT for the purpose of making a site office and store in the Dock area, the same may also be allotted subject to availability. The rents for such covered spaces or office room of KoPT, to be allotted to the Contractor, shall have to be paid by the Contractor, as per the 'Schedule of Rent of KoPT, prevailing at that time. In addition to the rent, **water consumption charges** [as per **GCC Clause Nos. 7.26.1**] and **Electricity consumption charges** [as per **GCC Clause No. 7.26.2**] (if Electricity / water is supplied from KoPT sources) and other applicable charges, as per the notifications of **Tariff Authority of Major Ports (TAMP)**, have to be paid by the Contractor. The Contractor will be responsible for installation, maintenance and calibration of Water Meter and / or Energy Meter also.

7.28 Existing services

- 7.28.1 Drains, Pipes, Cables, overhead wires and similar services, whether above or below the ground, which may be encountered in the course of the work, shall be saved and kept harmless from injury and/or loss or damages by the Contractor, at their own costs and expenses, so that they continue to be in full and uninterrupted use to the Employer.
- 7.28.2 The Contractor shall not store any materials or otherwise occupy any part of the site in a manner likely to hinder the operation of such services. The Contractor shall, at their own costs and expenses and without any delay, repair and make good, to the satisfaction of the Employer, any injury and/or loss or damage caused by the Contractor to the same.
- 7.29 Contractor to prepare working/ progress drawings**
- 7.29.1 The Contractor shall provide and make, at his own expense, any working or progress drawings, required by him or necessary for the proper execution of the works, and shall, when required, furnish copies of the same, free of cost, to the Engineer for his information and/or approval, without meaning thereby the shifting of Contractor's responsibility on the Engineer, in any way, whatsoever.
- 7.30 Contractor's price is inclusive of all costs**
- 7.30.1 Unless otherwise specified, the Contractor shall be deemed to have included in his bid / offer all his cost for supplying and providing all constructional plant, temporary work, materials (both for temporary and permanent works), labour (including supervision thereof), transporting to and from the site and in and about the work, including loading, unloading, fencing, watching, lighting, payment of fees, taxes and duties to the appropriate authorities and other things of every kind required for the construction, erection, completion and maintenance of the work.
- 7.31 Contractor is responsible for all construction process, except for correctness of design and specification formulated by the Engineer**
- 7.31.1 The Contractor shall be solely responsible for the adequacy, stability and safety of all site operations and methods of construction, even if any prior approval thereto has been taken from the Engineer or his Representative. The Contractor shall not be responsible for the correctness of the design or specification of the temporary and permanent works formulated by the Engineer, but the Contractor shall be fully responsible for the correct implementation thereof, as also for any design and specification prepared/proposed/used by the Contractor.
- 7.32 Contractor to submit his programme of work**
- 7.32.1 Whenever required by the Engineer or his Representative, the Contractor shall submit to him the details of his
- (a) programme for execution of the work,
 - (b) proposed procedure and methods of work,
- I proposed deployment of plant, equipment, labour, materials and temporary works.
- The submission to and/or any approval by the Engineer or his Representative to any such programme or particulars shall not relieve the Contractor of any of his obligations under the contract.
- 7.32.2 If, for any reason, the Contractor be unable to adhere to his earlier programme, he shall submit his revised programme for completion of work

within the stipulated time, whenever asked to do so.

7.33 Contractor to supervise the works

7.33.1 Necessary and adequate supervision shall be provided by the Contractor during execution of the works and as long thereafter as the Engineer or his Representative shall consider necessary during the Defect Liability Period (DLP). The Contractor, or his competent and authorised agent or representative, shall be constantly at site and instructions given to him by the Engineer or his Representative, in writing, shall be binding upon the Contractor subject to limitation in **GCC Clause No. 7.16** hereof. The Contractor shall inform the Engineer or his Representative in writing about such representative/agent of him at site.

7.34 Contractor is responsible for line, level, setting out, etc.

7.34.1 The Contractor shall be responsible for the true and proper setting out of the works, in relation to reference points / lines / levels given by the Engineer, in writing. The checking of any setting out or of any alignment or level by the Engineer or his Representative shall not, in any way, relieve the Contractor of his responsibility for the correctness thereof and he shall fully provide, protect and preserve all stakes, templates, bench marks, sight rails, pegs, level marks, profile marks and other things used in setting out the works.

7.35 Contractor is responsible to protect the work

7.35.1 From the commencement of the works till issue of the “Certificate of Completion of Work”, vide **GCC Clause No. 9.65** hereof, the Contractor shall take full responsibility for the care thereof. Save for the excepted risks, any damage, loss or injury to the work, or any part thereof, shall be made good by the Contractor, at his own cost, as per instruction and to the satisfaction of the Engineer, failing which, the Engineer or his Representative may cause the same to be made good by any other agency and the expenses, incurred and certified by the Engineer, shall be recoverable from the Contractor, in whatever manner the Engineer shall deem proper. This clause will not apply to that part of the work, which might have been taken over by the Trustees on partial completion of the work and in such case, the Contractor’s obligation will be limited to repairs and replacement for manufacturing or construction defects during the Defect Liability Period, as per the directions of the Engineer, as also for defects/damages, if any, caused to the work by the Contractor during such repairs and replacement during the Defect Liability Period.

7.36 Contractor is responsible for all damages to other structures / persons caused by him in executing the work

7.36.1 The Contractor shall, at his own cost, protect, support and take all precautions in regard to the personnel or structure or services or properties belonging to the Trustees or not, which may be interfered with or affected or disturbed or endangered and shall indemnify and keep indemnified the Trustees against claim for injury, loss or damage caused by the Contractor in connection with the execution and maintenance of the work to the aforesaid properties, structures and services and / or to any person, including the Contractor’s workmen. Cost of Insurance Cover, if any, taken by the Contractor, shall not

be reimbursed by the Trustees, unless otherwise stipulated in the contract.

7.37 Fossils, Treasure troves, etc. are Trustees' property

- 7.37.1 The Contractor shall immediately inform the Engineer's Representative if any fossil, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological importance be discovered at site, which shall remain the property of the Trustees, and protect them from being damaged by his workmen and arrange for disposal of them, at the Trustees' expense, as per the instruction of the Engineer's Representative.

7.38 Contractor to indemnify the Trustees against all claims for loss, damage, etc.

- 7.38.1 The Contractor shall be deemed to have indemnified the Trustees against all claims, demands, actions and proceedings and all costs arising there from on account of:
- (a) Infringement of any patent right, design, trademark or name or other protected right, in connection with the works or temporary work.
 - (b) Payment of all royalties, rent, toll charges, local taxes, other payments or compensation, if any, for getting all materials and equipment required for the work.
 - (c) Unauthorised obstruction or nuisance caused by the Contractor in respect of Public or Private road, railway tracks, footpaths, crane tracks, waterways, quays and other properties belonging to the Trustees or any other person.
 - (d) Damage/injury caused to any highway and bridge on account of the movement of Contractor's plants and materials in connection with the work.
 - (e) Pollution of waterway and damage caused to river, lock, sea-wall or other structure related to waterway, in transporting Contractor's plants and materials.
 - (f) The Contractor's default in affording all reasonable facilities and accommodation, as per the direction of the Engineer or his Representative, to the workmen of the Trustees and other agencies employed by or with the permission and/or knowledge of the Trustees on or near the site of work.

7.39 Dismantled materials Trustees' property

- 7.39.1 Debris and materials, if obtained by demolishing any property, building or structure, in terms of the contract, shall remain the property of the Trustees.

7.40 Contractor's quoted rates / price must be all inclusive

- 7.40.1 The Contractor's quoted rates shall be deemed to have been inclusive of the following:
- (a) Keeping the site free of unnecessary obstruction and removal from site of constructional plant wreckage, rubbish, surplus earth or temporary works no longer required.
 - (b) Cleaning and removal from site all the surplus materials, of every kind, to leave the site clean and tidy after completion of the work, without which payment against final bill may be liable to be withheld.
 - (c) Precautionary measures to secure efficient protection of Docks, the

River Hooghly and other waterways against pollution, of whatever nature, during execution and maintenance of the works and to prevent rubbish, refuse and other materials from being thrown into the water by the Contractor's men or those of his agency.

- (d) Making arrangements for deployment of all labourers and workers, local or otherwise, including payment for their wages, transport, accommodation, medical and all other statutory benefits and entry permits, wherever necessary.
- (e) Making arrangements, in or around the site, as per the requirements of Calcutta Municipality Corporation or other local authority or the Engineer or his Representative, for preventing
 - (i) spread of any infectious disease like smallpox, cholera, plague, malaria or dengue, by taking effective actions for destruction of rats, mice, vermin, mosquitoes, etc. and by maintaining healthy and sanitary condition,
 - (ii) illegal storage and distribution of Drugs, Narcotics, Alcoholic liquor, Arms and Ammunitions,
 - (iii) unlawful, riotous or disorderly conduct of the Contractor's or his Sub-contractor's workmen,
 - (iv) deployment of workmen of age less than 16 (sixteen) years.

7.41 Notice to Contractor

- 7.41.1 Every direction or notice to be given to the Contractor shall be deemed to have been duly served on or received by the Contractor, if the same is posted or sent by hand to the address given in the bid or to the Contractor's Site Office or, in case of Trustee's enlisted Contractor, to the address as appearing in the Trustee's Register or to the Registered Office of the Contractor. The time mentioned in these conditions for doing any act after direction or notice shall be reckoned from the time of such posting or despatch.

7.42 Contractor not to publish photograph or particulars of work

- 7.42.1 The Contractor and his Sub-contractor or their agents and men and any firm, supplying plant, materials and equipment, shall not publish or caused to be published any photographs or description of the works, without the prior authority of the Engineer in writing.

7.43 Contractor to provide facilities to outsiders

- 7.43.1 The Contractor shall, at the Trustees' cost to be decided by the Engineer, render all reasonable facilities and co-operation, as per direction of the Engineer or his Representative, to any other Contractor engaged by the Trustees and their workmen, to the Trustees' own staff and to the men of other Public Body, on or near the site of work, and in default, the Contractor shall be liable to the Trustees for any delay or expense incurred by reason of such default.

7.44 Work to cause minimum possible hindrance to traffic movement

- 7.44.1 The work has to be carried out by the Contractor causing minimum hindrance for any maritime traffic or surface traffic.

D. STAFF AND LABOUR

7.45 Engagement of staff and labour

- 7.45.1 The labour, as mentioned in the respective clauses, shall include all labourers of the approved sub-contractor(s), with respect to this contract.
- 7.45.2 The Contractor shall have to make their own arrangements for the engagement of all staff and labour, for doing the work at site or in respect of or in connection with the execution of work, as also for the transport, housing, feeding. They shall have to ensure making payment to the above staff and labours, to be engaged by them (including the labours, to be engaged by the approved Sub-contractor, if any).
- 7.45.3 KoPT's store shall mean any store of Haldia Dock Complex, situated at Haldia.
- 7.45.4 It is expressly made clear that both before and after the completion of the work or termination of the contract, **KoPT shall have no liability, whatsoever, for the personnel to be engaged by the Contractor [or by the approved Sub-contractor(s)] for the work under this contract.**

7.46 Labour Laws

- 7.46.1 The Contractor shall, at all times, during the pendency of the contract [including the period of making good/rectification of deficiencies/defects, if any], have to comply fully with all existing **Acts, Regulations and Byelaws**, including all **statutory amendments** and re-enactment of **State or Central Government** and other **Local Authorities** and any other enactments and acts that may be passed in future either by the **State** or the **Central Government** or **Local Authority**, including **Workmen's Compensation Act, Labour Laws and Equal Remuneration Act, Factories Act, Minimum Wages Act, Contract Labour (Regulation & Abolition) Act**, etc., if applicable and/or as applicable.
- 7.46.2 If, as a result of the Contractor's failure, negligence, omission, default or non-observance of any provisions of any laws, the Employer is called upon by any authority to pay or reimburse or required to pay or reimburse any amount, the Employer shall be entitled to deduct the same from any moneys due or that become due to the Contractor under this contract or any other contract or otherwise recover from the Contractor any sums, which the Employer is required or called upon to pay or reimburse on behalf of the Contractor.
- All **registration and statutory inspection fees**, in connection with labour engagement, with respect to this contract, shall have to be paid by the Contractor, if applicable and/or as applicable.
- 7.46.3 The Contractor shall have to, immediately after the occurrence of any accident, at or near the site or in connection with the execution of the work under the contract, report (over phone or otherwise) to the Engineer or his representative(s) and shall make every arrangement to render all possible assistance to the victim(s) of such accident.
- The Contractor shall also have to report such accident to the Engineer, in writing (giving reference to the earlier communication made). Based on such report, necessary communication with the competent authority would be made whenever such a report is required by law.

- 7.46.4 For any accident occurred within the entire operational area covered under the contract, the Contractor shall have to arrange prompt investigation into the matter through recording of statement of the personnel witnessing the accident. Such “Accident Report”, containing the findings, along with the statements so recorded, shall have to be forwarded by the Contractor to the Engineer at the earliest.
- 7.46.5 The Contractor shall have to provide full medical treatment to their staff & labourers, in case of “**Accident on Duty**”, which will inter alia include their obligations under the **Workmen’s Compensation Act, 1923**, including all amendments thereof.
- The Employer shall in no manner be liable to the Contractor or any person engaged/employed by them [including that of Sub-contractor] or any other person, for injuries or death caused as a result of accidents occurred, either within or outside the site of work, under the contract. The Contractor shall be responsible for such contingencies and will make good all claims for compensation, claim by their personnel/workmen or the families of the sufferer(s), as the case may be, or as per the decision of the appropriate authority/tribunal or other involved persons.
- 7.46.6 The Contractor shall have to indemnify KoPT, in the event of KoPT being held liable to pay compensation for injury to any Contractor’s servants or workmen [including that of Sub-contractor] under the **Workmen’s Compensation Act, 1923**, as amended from time to time.
- 7.46.7 Whenever the contract comes to an end with the efflux of time or otherwise or is terminated, the Contractor shall be required to fulfil all their obligations towards their workmen in terms of applicable labour laws and submit necessary documents towards such effect, to the Employer in support of the same. Any deposit, which may be lying with KoPT to their credit, will be liable to be applied for this purpose, if the Contractor fails to comply with the same.

7.47 **Health and safety**

- 7.47.1 In the event of any outbreak of illness or an epidemic nature, the Contractor shall have to comply with and carry out such regulations, orders & requirements, as may be made by the Government, or the local medical or sanitary authorities, for the purpose of dealing with and overcoming the same.
- 7.47.2 The Contractor shall have to ensure safety of all their working personnel to the fullest compliance of the provisions of **general safety rules/regulations**, including **Dock Workers’ (Safety, Health & Welfare) Regulations, 1986**.
- The Contractor shall be solely responsible for consequences arising out of non-compliance or violation of safety rules/ regulations.
- 7.47.3 The Contractor [including approved Sub-contractor(s)] shall have to provide (at their own expenses) all required **Personal Protection Equipment (PPE)** [such as **Helmets, Nose Masks, Hand Gloves**, etc.] & **Safety Gears** for all personnel and labourers engaged during the work and in case of their failing to do so, the Employer shall provide the same and recover the cost thereof from any amount due, or which may become due to the Contractor or from any amount lying with them or under their control.

7.48 **Labour licence**

- 7.48.1 Within 7 (seven) days from the date of issuance of the order, the Contractor

shall have to apply for **labour licence** for the maximum number of workers proposed to be deployed for this work. Necessary certificate shall be issued by the Engineer against a request from the Contractor.

Photocopy of the application shall have to be furnished to the Engineer, immediately. However, payment will be released only on furnishing the copy of the **Labour Licence** to the Engineer. However, such license should be kept valid throughout the actual duration of contract.

7.49 **Employees' Provident Fund & Employees' State Insurance**

7.49.1 The Contractor should have their establishment (with respect to this contract) registered with the concerned authorities under the provision of **Employees' Provident Fund & Miscellaneous Provision Act, 1952** and **Employees' State Insurance Act, 1948**. The Contractor shall have to submit the proof of registration as mentioned above immediately after commencement of work.

7.49.2 As per the above mentioned Act, the Contractor is liable for remittance of monthly subscription contribution in respect of **Employees' Provident Fund (EPF)** and **Employees' State Insurance (ESI)** for the workers engaged by them, wherever applicable. The Contractor shall have to submit the authenticated copy of the challans with respect to subscription / contribution of **Employees' Provident Fund** and **Employees' State Insurance** (against their respective Code Numbers issued by the **Employees' Provident Fund** and **Employees' State Insurance Authorities**) by 7th day of every English Calendar Month (during the currency of the contract) along with the list of labourers for whom such deposits have been made.

Payment will be held up if the up-to-date **Employees' Provident Fund** and **Employees' State Insurance** remittance challan is not submitted in time.

7.49.3 In case, registration with the EPF and ESI Authorities is not applicable for the employees of the Contractor [or for the employees of the Sub-contractor(s)], documentary evidence to establish non-applicability to be submitted by the Contractor.

7.49.4 In case of sub-contracting any part of the work, above requirements should also be fulfilled by the approved Sub-contractor and necessary documents shall have to be submitted in time, as indicated above.

E. PLANT, MATERIALS AND WORKMANSHIP

7.50 **Materials to be supplied by the Employer**

7.50.1 Regarding supply of any materials by the Trustees to the Contractor, in accordance with the contract, the following conditions shall apply:

- a) The Contractor shall, at his own expense, arrange for transporting the materials from the Trustees' Store [store of Haldia Dock Complex, situated at Haldia], watching, storing and keeping them in his safe custody, furnishing of statement of consumption thereof in the manner required by the Engineer or his Representative, return of surplus and empty container to the Trustees' Stores, as per the direction of the Engineer or his Representative.
- b) Being the custodian of the Trustees' materials, the Contractor shall remain solely responsible for any such materials issued to him and for any loss or damage thereof for any reason other than "Excepted Risks", the Contractor shall compensate the Trustees', in the manner

decided by the Engineer, and shall, at no stage, remove or cause to be removed any such material from the site, without his permission.

- c) The Trustees' materials will generally be supplied in stages and in accordance with the rate of progress of work, but, except for grant of suitable extension of completion time of work as decided by the Engineer, the Contractor shall not be entitled to any other compensation, monetary or otherwise, for any delay in the supply of Trustees' materials to him. The Contractor shall, however, communicate his requirement of such materials to the Engineer from time to time.
- d) Unless stipulated otherwise in the contract, the value of the Trustees' materials issued to the Contractor shall be recovered from the Contractor's bills and/or any of his other dues, progressively, according to the consumption thereof on the work and/or in the manner decided by the Engineer or his Representative and at the rate(s) stipulated in the contract. These rates shall only be considered by the Contractor in the preparation of his bid/offer and these will form the basis of escalation/variation, if in future the Contractor is required to procure and provide any such material on the written order of the Engineer, consequent on the Trustees' failure to effect timely supply thereof.
- e) If the Engineer decides that due to the Contractor's negligence, any of the Trustees' materials, issued to the Contractor, has been – (i) lost or damaged, (ii) consumed in excess of requirement and (iii) wasted by the Contractor in excess of normal wastage, then the value thereof shall be recovered from the Contractor's bills, or from any of his other dues, after adding 19.25 % extra over the higher one of the followings:
 - i) The issue rate of the materials at the Trustees' Stores, and
 - ii) The market price of the material on the date of issue, as would be determined by the Engineer.

7.51 Contractor's arrangement for execution of the work

- 7.51.1 The Contractor will have to arrange and provide all types of materials, etc. [in line with the Technical Specification] throughout the execution of the contract.
- 7.51.2 KoPT will not take any responsibility regarding **non-availability** of any such materials for which Contractor is responsible as per contract. The Contractor shall have to assess the requirement of such materials and keep sufficient stock.
- 7.51.3 The Contractor shall have to provide all equipment, including tools, tackles, lifting machineries, air compressor, scaffolding arrangement, different vehicular transport, etc., necessary to execute the work.
- 7.51.4 All tools & machineries to be used by the Contractor should be suitable for the particular requirement (i.e. capacity should be adequate) and the same should be checked for fitness before use. They should maintain the said equipment properly to ensure their efficient working.
- 7.51.5 The Contractor shall, at their own costs and expenses, have to provide all labour, plant, haulage, transportation of plant and equipment to be used for executing the contract, all materials, stores, etc. (except the equipments &

materials to be provided by KoPT, as per contract) required for efficiently carrying out the work to the satisfaction of the Employer.

- 7.51.6 The Contractor should use calibrated measuring & testing instruments and should also ensure revalidation of such calibration as and when required. In this regard, initially the Contractor shall have to submit a list of **measuring and testing instruments** (mentioning the period of validity of Calibration Certificates) to be used. The photocopies of the Calibration Certificates (including the revalidations) of the said measuring and testing instruments, shall have to be submitted to the Engineer.

7.52 **Inspection:**

After delivery of diving gear/equipment at site by the successful bidder, the same would be inspected by representative of Port Diving Unit, HDC, KoPT in presence of authorised representative of the successful bidder, based on the documents furnished by the successful bidder against Clause No. 1.1 of the instant tender document. A joint inspection report of the diving gears/equipment would be issued thereafter regarding acceptance of diving gears/equipment, if found in order

7.53 **Contractor to replace materials/work not acceptable to the Engineer or his Representative**

- 7.53.1 The Engineer or his Representative shall have the power to inspect any material and work at any time and to order at any time

- a) for removal from the site of any material, which, in his opinion, is not in accordance with the contract or the instruction of the Engineer or his Representative,
- b) for the substitution of proper and suitable materials, or
- c) the removal and proper re-execution of any work, which, in respect of material and workmanship, is not in accordance with the contract or the instructions of the Engineer.

The Contractor shall comply with such order at his own expense and within the time specified in the order. If the Contractor fails to comply, the Engineer shall be at liberty to dispose any such materials and re-do any work in the manner convenient to the Trustees by engaging any outside agency, at the risk and expense of the Contractor and after giving him a written prior notice of 7 (seven) days.

7.54 **Removal of materials on completion**

- 7.54.1 The Contractor shall, on completion of the contract or when directed by the Employer, shall have to remove all plant, equipment, tools, materials, temporary constructions, etc. and rubbish garbage, waste, which may have accumulated during the execution of the contract, other than those permanently used into the work, at Employer's site.

7.55 **Workmanship and secrecy**

- 7.55.1 The Contractor shall carry out the services in conformity with generally accepted norms and sound standards of Engineering. The Contractor shall be responsible for the technical soundness of the services rendered. In the event of any deficiency in those services, the Contractor shall promptly re-do the same, at no additional cost to the Employer.
- 7.55.2 The Contractor shall use all the documents, drawings and other data & information, of proprietary nature, received from the Employer, solely for the

purpose of performing and carrying out the obligations on his part under the Agreement in the performance of the works for the project and maintain utmost secrecy, in this regard. The documents, drawings and other data & information, received from the Employer, shall not be used by the Contractor for any other purpose.

F. COMMENCEMENT, EXECUTION & COMPLETION OF WORK, HANDING OVER AND TAKING OVER

7.56 Preliminary time to commence work and maintenance of steady rate of progress

7.56.1 The Contractor shall commence the work within 7 (seven) days of the receipt of Engineer's letter informing acceptance of the Contractor's bid / offer by the Trustees or within such preliminary time as mentioned by the Contractor in the "Form of Tender" or the time accepted by the Trustees. The Contractor shall then proceed with the work with due expedition and without delay, except as may be expressly sanctioned or ordered by the Engineer or his Representative, time being deemed the essence of the contract on the part of the Contractor.

7.57 Contractor's site office

7.57.1 The Contractor shall provide and maintain a suitable office at or near the site to which the Engineer's Representative may send communications and instructions for use of the Contractor.

7.58 Contractor to observe Trustees' working hours

7.58.1 Unless specified otherwise in the contract or prior permission of the Engineer has been taken, the Contractor shall not execute the work beyond the working hours observed by the Engineer's Representative and on Sundays and Holidays observed in the Trustees' system, except in so far as it becomes essential on account of tidal work or for safety of the work. If the progress of the work lags behind schedule or the work has been endangered by any act or neglect on the part of the Contractor, then the Engineer or his Representative shall order and the Contractor, at his own expense, shall work by day and by night and on Sundays and Public Holidays. Any failure of the Engineer or his Representative to pass such an order shall not relieve the Contractor from any of his obligations. The Engineer's decision, in this regard, shall be final, binding and conclusive.

7.59 Contractor to supply all materials as per requirement of the Engineer or his Representative

7.59.1 Unless stipulated otherwise in the contract, all materials required for the work shall be procured and supplied by the Contractor with the approval of the Engineer or his Representative and subject to subsequent testing, as may be required by the Engineer or his Representative. The Engineer shall exercise his sole discretion to accept any such materials

7.60 Materials and works

7.60.1 Unless stipulated otherwise in the contract, all materials, workmanship and method of measurement shall be in accordance with the relevant Codes (Latest Revision) of the Bureau of Indian Standards and the written instructions of the Engineer or his Representative. Where no specific reference is available in the contract, the material and workmanship shall be of the best of their respective kinds to the satisfaction of the Engineer.

7.61 Contractor to submit samples for approval

- 7.61.1 Samples shall be prepared and submitted for approval of the Engineer or his Representative, whenever required to do so, all at the Contractor's cost.

7.62 Contractor to seek approval of Engineer or his Representative before covering up any portion of work

- 7.62.1 No work shall be covered up and put out of view by the Contractor without approval of the Engineer or his Representative and whenever required by him, the Contractor shall uncover any part or parts of the work or make openings in or through the same as may be directed by the Engineer or his Representative from time to time and shall reinstate or make good those part of works thus affected, to the satisfaction of the Engineer, all at the cost of the Contractor.
- 7.62.2 The Trustees shall reimburse such cost, as determined by the Engineer, if the initial covering up was with prior written order of the Engineer or his Representative.

7.63 Contractor to suspend work on order from Engineer or his Representative

- 7.63.1 On a written order of the Engineer or his Representative, the Contractor shall delay or suspend the progress of the work, till such time the written order to resume the execution is received by him. During such suspension, the Contractor shall protect and secure the work to the satisfaction of the Engineer or his Representative. All extra expenses, in giving effect to such order, shall be considered by the Trustees, unless such suspension is:
- a) for removal from the site of any material, which, in his opinion, is not in accordance with the contract or the instruction of the Engineer or his Representative,
 - b) otherwise provided for in the contract, or
 - c) necessary by reason of some default on the part of the Contractor, or
 - d) necessary by reason of climatic conditions on the site, or
 - e) necessary for proper execution of the works or for the safety of the works or any part thereof.
- 7.63.2 The Engineer shall settle and determine such extra payment and/or extension of completion time to be allowed to the Contractor, as shall, in the opinion of the Engineer, be fair and reasonable.
- 7.63.3 If at any time, before or after commencement of the work, the Trustees do not require the whole of the work tendered for, the Engineer shall notify the same to the Contractor in writing and the Contractor shall stop further works in compliance of the same. The Contractor shall not be entitled to any claim for compensation for underived profit or for such premature stoppage of work or on account of curtailment of the originally intended work by reason of alteration made by the Engineer in the original specifications, drawings, designs and instructions.

7.64 Completion Certificate

- 7.64.1 When the whole of the work [as detailed in **GCC Clause No. 7.65 (Completion period)**] has been completed to the satisfaction of the Engineer,

the Contractor shall, within 21 (twenty one) days of submission of his application to the Engineer, be entitled to receive from him a certificate for completion of work as per the form furnished in **Section – XI**.

7.65 Period of Hiring:

7.65.1 Period of hiring would be as stipulated in the SCC.

7.66 Taking over of the Contract job by KoPT

7.66.1 The **Contract job** will be taken over by HDC, KoPT after completion of the works in accordance with the contract, having passed all the tests under “Tests on completion”.

7.66.2 However, the actual date of completion of the contract will be considered as per **GCC Clause No. 7.65 [Completion period]**.

7.67 Defect Liability Period (DLP)

7.67.1 “**Defect Liability Period**” shall mean the **Guarantee Period**, as specified in SCC.

7.67.2 During “**Defect Liability Period**” [as specified in SCC], the Contractor shall nominate 1 (one) competent, experienced and responsible technical person, to co-ordinate and execute all works to be attended by the Contractor, as per contractual obligations, without any extra cost to HDC, KoPT.

7.67.3 The Contractor shall be responsible for making good (including replacement of defective items, if required), with all possible speed, at their expense, any defect in or damage to any portion of the work, which may appear or occur after the Contract job has been taken over [as per GCC Clause No. 7.66 (Taking over of the Contract job by KoPT)] and before expiry of Defect Liability Period [as specified in **SCC**] and which arises either:

- a) from any defective materials, workmanship or design, or
- b) from any act or omission of the Contractor done or omitted during the said period.

7.68 Defects after taking over

7.68.1 If any such defects shall appear or damage occur (as detailed in **7.67.3**), the Engineer shall forthwith inform the Contractor thereof, stating in writing the nature of defect or damage.

The provision of this clause shall apply to all replacements or renewals carried out by the Contractor to remedy defects and damage as if the said replacements and renewals had been taken over on the date they were completed to the satisfaction of Engineer. After the taking over, if the Contract job cannot be used (for the purpose for which it is intended), during any period, by the reason of a defect or damage, the **Defect Liability Period** shall be extended accordingly, as specified in SCC.

7.68.2 If any such defect or damage be not remedied by the Contractor within a reasonable time, HDC, KoPT may proceed to do the work at the Contractor’s risk and expense, but without prejudice to any other rights which HDC, KoPT may have against the Contractor in respect of such defects.

7.68.3 All inspection, adjustments, replacement or renewal carried out by the

Contractor during the period referred in this clause shall be subject to the conditions of this contract, which shall be binding on the contractor in all respects during the **Defect Liability Period** and its extension, if any.

G. CONTRACT PRICE , PAYMENT AND DEDUCTIONS

7.70 Contract Price

- 7.70.1 Price charged by the Contractor for the related services performed under the contract shall not vary from the rates accepted by the Employer, based on the bid/offer of the successful bidder and stated in the “Letter Of Acceptance”, with the exception of any price adjustment, if provided for in the contract.
- 7.70.2 Changes **in statutory taxes & duties will be adjusted** time to time.
- 7.70.3 No claim whatsoever of the Contractor for their man & material resources remaining idle for any reason or for any other expenses incurred by them due to the flow of work not being continuous or for stoppage of work, will be entertained by the Employer.

7.71 Terms of payment

7.71.1 Payment of Goods & Services Tax (GST):

Amount of GST will be borne by HDC, KoPT on production of suitable document(s) by the Contractor.

7.71.2 Time of payment:

The Contractor shall have to submit **bills in triplicate** to the Engineer, in accordance with the stage-wise payments specified in SCC. In normal circumstances, payment of the bills, accompanied by **Inspection Certificates** & other relevant documents, duly recommended by the Engineer, will be passed within 30 (thirty) days from the date of receipt of such bills, if found in order.

7.71.3 Income Tax deduction:

Income Tax, if any, as per the relevant provision of the Income Tax Act, shall be **deducted at source** from amount payable to the Contractor.

7.71.4 No interest on account of delayed payments:

Any claim for interest will not be entertained by KoPT with respect to any delay on the part of KoPT for making payment, or for any dispute. The decision of the Engineer is final in such matters.

7.72 Extra expenses incurred by the Employer

- 7.72.1 Any extra expenses incurred in connection to the work by the Employer in the performance of the work owing to the neglect or omission on the part of the Contractor in any of the case mentioned in this contract shall be deducted from any sum due or which may thereafter become due to the Contractor or from any amount lying with them or under their control or they may be called upon to pay the amount of such extra expense to such person or persons as the Employer may appoint to receive the same and in the event of the Contractor failing to make such payment, the said amount shall be recoverable from them in such manner as the Employer may determine,

7.73 Recovery of deducted amount

- 7.73.1 Without prejudice to any of their legal rights, the Trustees shall have the power to recover the amount of **DEDUCTION**, from any money due or likely to become due to the Contractor. Such payment or deduction shall not relieve the Contractor from their obligation to complete the work or from any of their other obligations / liabilities under the contract.

7.74 Variation and its valuation

- 7.74.1 The Engineer shall have the power to order the Contractor, in writing, to make any variation of the quantity, quality or form of the works or any part thereof that may, in his opinion, be necessary and the Contractor upon receipt of such an order shall act as follows:
- a) Increase or decrease the quantity of any work included in the contract.
 - b) Omit any work included in the contract.
 - c) Change the character or quality or kind of any work included in the contract.
 - d) Change the levels, lines, position and dimensions of any part of the work, and
 - e) Execute extra and additional work, of any kind, necessary for completion of the works.
- 7.74.2 No such variation shall, in any way, vitiate or invalidate the contract or be treated as revocation of the contract, but the value (if any) of all such variations, evaluated in accordance with the Engineer's sole decision, shall be taken into account and the contract price shall be varied accordingly.
- 7.74.3 Provided always that written order of the Engineer shall not be required for increase or decrease in the quantity of any work up to 15%, where such increase or decrease is not the result of any variation order given under this clause but is the result of the quantities exceeding or being less than those stated in the "Price Schedule". Provided also that verbal order of variation from the Engineer shall be complied with by the Contractor and the Engineer's subsequent written confirmation of such verbal order shall be deemed to be an order in writing within the meaning of this clause.
- 7.74.4 The Contractor shall not be entitled to any claim of extra or additional work, unless they have been carried out under the written orders of the Engineer.
- 7.74.5 The Engineer shall solely determine the amount (if any) to be added to or deducted from the sum named in the tender in respect of any extra work done or work omitted by his order.
- 7.74.6 All extra, additional or substituted work done or work omitted by order of the Engineer shall be valued on the basis of the rates and prices set out in the contract, if in the opinion of the Engineer, the same shall be applicable. If the contract does not contain any rates or prices directly applicable to the extra, additional or substituted work, then the Engineer may decide the suitable rates on the basis of "Schedule of Rates" (including surcharge in force at the time of acceptance of bid), if any, adopted by the Trustees with due regard to the accepted contractual percentage, if any thereon. In all other cases, the Engineer shall solely determine suitable rates in the manner deemed by him as fair and reasonable and his decision shall be final, binding and conclusive.
- 7.74.7 If the nature or amount of any omission or addition relative to the nature or amount of the whole of the contract work or to any part thereof shall be such

that, in the opinion of the Engineer, the rate of prices contained in the contract for any item of the works or the rate as evaluated under **GCC Clause Nos. 7.74.5 & 7.74.6**, is by reason of such omission or addition rendered unreasonable or in-applicable, the Engineer shall fix such other rate or price as he deems proper and the Engineer's decision shall be final, binding and conclusive.

H. TERMINATION BY EMPLOYER

7.75 Notice to correct

7.75.1 If the Contractor fails to carry out any of their obligations under the contract, the Engineer may give notice to the Contractor, requiring them to make good the failure and to remedy the same within a specified reasonable time.

7.76 Termination by Employer

7.76.1 The Employer shall be entitled to terminate the contract if:

- a) the Contractor **abandons** the work, or **repudiates** the contract, or otherwise plainly demonstrates the intention not to continue performance of their obligations under the contract,
- b) the Contractor, without reasonable or lawful excuse under this contract,
 - i) fails to proceed with the work, **within 14 days** from the scheduled date for commencement of work, in accordance with **GCC Clause No. 7.56 [Preliminary time to commence work and maintenance of steady rate of progress]**,
 - ii) keeps the work suspended for **at least 14 days**, despite receiving Engineer's written notice to proceed with the work,or
 - iii) fails to comply with a notice issued regarding rejection of material(s)/work and/or remedial work, **within 28 days** after receiving it,
- c) the Contractor **assigns/sub-contracts the whole of the work**
Or
sub-contracts any portion of the work, without the required consent, in line with **GCC Clause No. 7.22**.
- d) the Contractor becomes **bankrupt** or **insolvent**, goes into liquidation, have a receiving or administrative order made against them, compounds with their creditors, or carries on business under a receiver, trustees or manager for the benefit of their 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,
- e) the Contractor 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 Sub-contractors 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 inducement and reward to the Contractor's personnel shall not entitle termination
- f) the Contractor fails to execute the work in accordance with the contract
or
persistently or flagrantly neglects to carry out their obligations under the contract.
- g) the Contractor fail to make payment of wages to their personnel in relation to this contract,
- h) the Contractor fails to carry out the work satisfactorily (as stated in these bidding documents or otherwise decided by the Engineer) or may not be able to complete the work within the agreed period on account of Contractor's lapses.
- i) any accident occurs due to improper way of working by the Contractor's personnel, or
- j) any misconduct done by Contractor's personnel (including that of Agents or Sub-contractors) to KoPT's employees.

In any of these event or circumstances, the Employer may, upon giving a **minimum 14 days' notice** [communicated by the Engineer] to the Contractor, **terminate the contract** and expel the Contractor from the site, without being liable for any compensation to the Contractor. However, in case of **sub-paragraph (e) or (f)**, the Employer may, by notice [communicated by the Engineer], 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.

7.76.2 Upon receipt of the letter of termination of work, which may be issued by the Engineer on behalf of the Employer, the Contractor shall have to leave the site of work and deliver any **required goods**, all **Contractor's documents**, and other **design documents**, made by or for them, all the **Trustees' tools, plant and materials** issued to them, at the place to be ascertained by the Engineer, **within 7 days** of receipt of such letter. However, the Contractor shall use their best efforts to comply immediately with any reasonable instructions included in the notice

- i) for the assignment of any Sub-contractor,
and
- ii) for the protection of life or property or for the safety of the equipment/work.

The Contractor shall not be released from any of their obligations or liability under the contract and the rights & authorities conferred on the Employer and Engineer, by the contract, shall not be affected.

7.76.3 Upon such termination of work, the Employer shall have the power to complete the work by **themselves** and/or through **any other agency** at the

Contractor's risk & expense and the Contractor shall be debited **any sum or sums that may be expended in completing the work beyond the amount that would have been due to the Contractor, had they duly completed the whole of the work in accordance with the contract.**

The Employer or such other agency may use, for such completion, so much of the Contractor's documents, other design documents, made by or on behalf of the Contractor, Contractor's equipment, temporary work, plant & materials, as they think proper.

Upon completion of the work, or at such earlier date, as the Engineer shall give notice that the Contractor's equipment and temporary work will be released to the Contractor at or near the site, the Contractor shall remove or arrange removal of the same from such place without delay and at their risk & cost. 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 be paid to the Contractor.

7.77 Valuation at date of termination

- 7.77.1 As soon as practicable after a notice of termination under **GCC Clause No. 7.76 [Termination by Employer]**, has taken effect, the Engineer shall proceed in accordance with **GCC Clause No. 7.19 [Determinations]** to agree or determine the value of the work, goods & Contractor's documents, and any other sums due to the Contractor for work executed, in accordance with the contract. The value of such work (executed in accordance to the Contract) shall be determined based on measurements of actual work done and approved rate(s), as per contract or other rates, as decided by the Engineer. The Engineer's decision, in such case, shall be final, binding and conclusive.

7.78 Payment after termination

- 7.78.1 After a Notice of termination, under **GCC Clause No. 7.76 [Termination by Employer]** has taken effect, the Employer may
- a) give notice to the Contractor, indicating the particulars, for which Employer is entitled to any payment under any Clause or otherwise in connection with the contract, and or any extension of the **Defect Notification Period**.

However , Notice is not required for payments due under **GCC Clause No. 7.26 [Supply of water and Electricity]**, under **GCC Clause No. 7.27 [Use of ground and land/covered space for Contractor's establishment]**, or for other services requested by the Contractor,
 - b) withhold further payments to the Contractor until the cost of execution, completion and remedying of any defects, damage, 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 work, after allowing for any sum due to the Contractor under **GCC Clause No. 7.77 [Valuation at date of termination]**. After recovering any such losses, damages and extra costs, the Employer shall pay any balance to the Contractor.

7.79 Employer's entitlement to termination for convenience

- 7.79.1 The Employer, by notice [communicated by the Engineer] sent to the Contractor, may terminate the Contract, in whole or in part, at any time **for Employer's convenience**. The notice of such termination shall specify that termination is for **Employer's convenience**, the extent to which performance of the Contractor under the contract is terminated, and the date upon which such termination become effective.

The Employer shall not terminate the contract under this Sub-clause in order to execute the work exclusively by themselves or to arrange for work to be executed exclusively by another Contractor or to avoid a termination of the contract by the Contractor under **GCC Clause No. 7.82 [Termination by Contractor]**.

After such termination, the Contractor shall proceed in accordance with **GCC Clause No. 7.83 [Cessation of work and removal of Contractor's equipment]** and shall be paid in accordance with **GCC Clause No. 7.90 [Optional termination, payment and release]**.

7.80 **Corrupt or fraudulent practices**

- 7.80.1 If the Employer determines that the Contractor has engaged in **corrupt, fraudulent, collusive, coercive, or obstructive** practices, in competing for or in executing the Contract, then the Employer may, after giving **14 days notice** to the Contractor, terminate the Contractor's employment under the Contract and expel them from the Site, and the provisions of **GCC Clause Nos. 7.75 to 7.78** shall apply as if such expulsion had been made under **GCC Clause No. 7.76 [Termination by Employer]**.

Should any employee of the Contractor be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the execution of the work, then that employee shall be removed in accordance with **GCC Clause No. 9.21 [Contractor's personnel and Contractor's representative]**.

For the purposes of this clause:

- i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v) "obstructive practice" is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Employer investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and / or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to

the investigation or from pursuing the investigation.

I. SUSPENSION AND TERMINATION BY CONTRACTOR

7.81 Contractor's entitlement to suspend work

- 7.81.1 The Contractor may, if the Employer fails to pay the Contractor the amount due under any certificate of the Engineer **within 28 days** after the expiry of the time stated in **GCC Clause No. 7.71 [Terms of payment]** within which payment is to be made, subject to any deduction that the Employer is entitled to make under the Contract, after giving 28 days' prior notice to the Employer, with a copy to the Engineer, suspended work or reduce the rate of work.
- 7.81.2 If the Contractor subsequently receives the due payment (as described in the relevant Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.
- 7.81.3 If the Contractor suspends work or reduces the rate of work in accordance with the provisions of this Clause and thereby suffers delay, the Engineer shall, after due consultation with the Contractor, determine any extension of time or minimum criteria for satisfactory performance, to which the Contractor is entitled and shall notify the Contractor accordingly.

7.82 Termination by Contractor

- 7.82.1 The Contractor will be entitled to terminate the Contract if:
 - a) the Contractor does not receive the reasonable evidence within **42 days after** giving notice under **GCC Clause No. 7.81 [Contractor's entitlement to suspend work]** in respect of a failure of the Employer to pay the Contractor the amount due,
 - b) the Employer obstruct or refuse any required approval to the issue of any such certificate, which is essentially required for further progress of the work without notifying any reason for such obstruction or refusal for a unreasonably long period of time, or
 - c) the Employer become bankrupt or insolvent, go into liquidation, or enter into composition with the creditors,or
 - d) the Employer give notice to the Contractor that for unforeseen reasons, due to economic dislocation, it is impossible for them to continue to meet their contractual obligations.

In any of these events or circumstances, the Contractor may, upon giving **28 days' notice** to the Employer (with a copy to the Engineer), terminate the Contract.

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

7.83 Cessation of work and removal of Contractor's equipment

- 7.83.1 After a notice of termination under **GCC Clause No. 7.79 [Employer's entitlement to termination for convenience]**, **GCC Clause No. 7.82 [Termination by Contractor]** or **GCC Clause No. 7.90 [Optional termination, payment and release]** has taken effect, the Contractor shall

promptly:

- a) cease all further work, except for such work as may be necessary and instructed by the Engineer for the purpose of making safe or protecting those parts of the work already executed and any work required to leave the site in a clean and safe condition.
 - b) hand over all construction documents, Plant and Materials for which the Contractor has received payment.
 - c) hand over those other parts of the Works executed by the Contractor up to the date of termination
 - d) remove all Contractor's equipment, which is on the site and repatriate all their staff and labour from the site.
- and
- e) remove all other goods from the site, except as necessary for safety, and leave the site.

Any such termination shall be without prejudice to any other right of the Contractor under the contract.

7.84 Payment on termination

7.85.1 After a notice of termination under **GCC Clause No. 7.82 [Termination by Contractor]** has taken effect, the Employer shall promptly:

- a) pay the Contractor in accordance with **GCC Clause No. 7.90 [Optional termination, payment and release]** ,
- and
- e) pay to the Contractor the amount of any loss or damage sustained by the Contractor as a result of this termination.

J.

INSURANCE

7.85 General requirements for insurances

7.85.1 The contractor during the contract period shall provide for insurance of 110% of the contract value including manning upto the commissioning and taking over of the installation.

K.

FORCE MAJEURE

7.86 Definition of Force Majeure

7.86.1 In this clause “**Force Majeure** “ means an exceptional event or circumstance

- a) which is beyond the control of the Employer and the Contractor,
- b) which such party (Employer / Contractor) 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 attributable to other party.

Force Majeure may include, but 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, sabotage by persons other than the Contractor's personnel, revolution, insurrection , military or usurped power, or Civil War;**
- iii) **riot, commotion, disorder, strike or lockout by persons other than the Contractor's personnel;**
- iv) **munitions of war, explosive materials, ionisation radiation or contamination by radio-activity,** except as may be attributable to the Contractor's use of such munitions, explosives, radiations or radio-activity;
- v) **natural catastrophes** such as **earthquake, tsunami** (caused by earthquake at the ocean bed),**fire, floods, hurricane, cyclone, typhoon or volcanic activity,**

and

- vi) **pressure waves** caused by air craft or other aerial devices travelling at sonic or supersonic speed at the site of the work.

7.87 **Notice of Force Majeure**

- 7.87.1 If a party is or will be prevented from performing 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 48 (forty eight) hours** of the alleged beginning of the relevant event or circumstance constituting Force Majeure, giving full particulars and satisfactory evidence.

The party shall, having given notice, be excused performance of its 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.

7.88 **Duty to minimise delay**

- 7.88.1 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, **within 48 (forty eight) hours** of such ending.

7.89 **Consequences of Force Majeure**

7.89.1 If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under **GCC Clause No. 7.87 [Notice of Force Majeure]**, and suffers delay and/or non-performance as per the contractual obligations, by reason of such Force Majeure, the Contractor shall be entitled, subject to **GCC Clause No. 7.91 [Engineer's decision]**, to:

- a) an extension of time for any such delay, if completion is or will be delayed, under **GCC Clause No. 7.69 [Extension of completion period and liquidated damage]**,
and
- b) non-imposition of penalty due to non-performance as per the contractual obligations.

After receiving this notice, the Engineer shall proceed in accordance with **GCC Clause No. 7.19 [Determinations]** to agree or determine these matters.

7.90 **Optional termination, payment and release**

7.90.1 If the execution of all the work in progress is prevented for a **continuous period of 84 days** by reason of **Force Majeure** of which notice has been given under **GCC Clause No. 7.87 [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 **GCC Clause No. 7.83 [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 work which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery. Such 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;
- d) the **reasonable Cost** of removal of temporary work and Contractor's equipment from the site and the return of such items to the Contractor's premises,

and

- e) the reasonable cost of repatriation of the Contractor's staff and labour employed wholly in connection with the work at the date of such termination.

L. CLAIMS, DISPUTES AND ARBITRATION

7.91 Engineer's decision

- 7.91.1 If a dispute of any kind whatsoever arises between the Employer and the Contractor in connection with, or arising out of, the contract or the execution of the works, whether during the execution of the works or after their completion and whether before or after repudiation or other termination of the contract, including any dispute as to any opinion, instruction, determination certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred, in writing, to the Engineer within **30 (thirty) days**, with a copy to the other party. Such reference shall state that it is made pursuant to this clause. No later than the **thirtieth day** after the day on which he received such reference, the Engineer shall give notice of his decision to the Employer and the Contractor. Such decision shall state that it is made pursuant to this clause.

Unless the contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the works with all due diligence and the Contractor and the Employer shall give effect forthwith to every such decision of the Engineer unless and until the same shall be revised, as hereinafter provided, in an amicable settlement or an arbitral award.

If either the Employer or the Contractor be dissatisfied with any decision of the Engineer, or if the Engineer fails to give notice of his decision on or before the **thirtieth day** after the day on which he received the reference, then either the Employer or the Contractor may, on or before the **seventieth day** after the day on which he received notice of such decision, or on or before the seventieth day after the day on which the said period of thirty days expires, as the case may be, give notice to the other party, with a copy for information to the Engineer, of his intention to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to **GCC Clause No. 7.94 (Failure to comply with Engineer's decision)**, no arbitration in respect thereof may be commenced unless such notice is given.

If the Engineer has given notice of his decision as to a matter in dispute to the Employer and the Contractor and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor on or before the **seventieth day** after the day on which the parties received notice as to such decision from the Engineer, the said decision shall become final and binding upon the Employer and the Contractor.

7.92 Amicable settlement

- 7.92.1 Where notice of intention to commence arbitration as to a dispute has been given in accordance with **GCC Clause No. 7.91 (Engineer's decision)** above, both parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both parties agree otherwise, arbitration may be commenced on or **after the fifty-sixth day after the day on which a notice of intention to commence arbitration of such dispute was given**, even if no attempt at amicable settlement thereof has been made.

7.93 Arbitration

- 7.93.1 Any dispute in respect of which
- a) the decision, if any, of the Engineer, has not become final and binding pursuant to **GCC Clause No. 7.91 (Engineer's decision)** and

- b) amicable settlement has not been reached within the period stated in **GCC Clause No. 7.92 (Amicable settlement)**,

shall be finally settled by arbitration, in accordance with the **Arbitration and Conciliation Act, 1996 (considering its amendment in 2015)** or any statutory modification or re-enactment thereof and rules made there under and for the time being in force. The **Arbitration Tribunal** shall be composed as per provision of the **Arbitration and Conciliation Act, 1996 (considering its amendment in 2015)** or any statutory modification or re-enactment thereof and rules made there under and for the time being in force.

7.93.2 In connection with the instant contract:

- a) the place of arbitration shall be **Kolkata or Haldia**, West Bengal, India,
- b) the arbitration shall be conducted in **English language**,
and
- c) the fees, if any, of the Arbitrators, if required to be paid before the award of work in respect to disputes is made and published, shall be shared equally by each of the parties

7.93.3 The Arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion, valuation or decision of the Engineer, relevant to the dispute. Nothing shall disqualify representatives of the parties and the Engineer from being called as a witness and giving evidence before the Arbitrators on any matter, whatsoever, relevant to the dispute.

7.93.4 Neither party shall be limited in the proceedings before such Arbitrators to the evidence or arguments put before the Engineer for the purpose of obtaining his said decision pursuant to **GCC Clause No. 7.91 (Engineer's decision)**. No such decision shall disqualify the Engineer from being called as a witness and giving evidence before the Arbitrators on any matter whatsoever relevant to the dispute.

7.93.5 Arbitration may be commenced prior to or after completion of the works, provided that the obligations of the Employer, the Engineer and the Contractor shall not be altered by reason of the arbitration being conducted during the progress of the works.

7.94 **Failure to comply with Engineer's decisions**

7.94.1 Whether neither the Employer nor the Contractor has given notice of intention to commence arbitration of dispute within the period stated in **GCC Clause No. 7.91 (Engineer's decision)** and the related decision has become final and binding, either party may, if the other party fails to comply with such decisions, and without prejudice to any other rights it may have, refer the failure to arbitration, in accordance with **GCC Clause No. 7.93 (Arbitration)**. The provision of **GCC Clause No. 7.91 (Engineer's decision)** and **GCC Clause No. 7.92 (Amicable settlement)** shall not apply to any such reference.

7.95 **Progress of work not to be interrupted**

7.95.1 The Contractor must, at all the times, fulfil their obligations under the contract and shall not slow down or stop the progress of work during the period any dispute is under settlement either through reference to the

Engineer or through arbitration, pursuant to the preceding clauses. Even if the works to be carried out during such a period involve matters under dispute, the Contractor shall nevertheless proceed with the works as per direction of the Engineer, pending settlement of the dispute. Failure of the Contractor, in this respect, shall constitute default on their part and render them liable to actions under the provisions of **GCC Clause No. 7.76 [Termination by Employer]**.

<u>SECTION - VIII</u>	
<u>SPECIAL CONDITIONS OF CONTRACT (SCC)</u>	
The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC) . Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.	
<i>Clause No. 7.65</i>	<u>Clause No. 7.65.1</u>
Duration of hiring	<p>Duration of hiring of diving gears/equipment would be one year from the date of acceptance of diving gears/equipment at site (as mentioned in Clause No. 2.1.2).</p> <p>Although the period of hiring of diving gears/equipment has been mentioned above, but hiring of the said diving gears/equipment may be discontinued at the last date of any month, after six months from the date of acceptance of diving gears/equipment at site. Such foreclosure, if any, would be without any extra liability to HDC, KoPT</p>
<i>Clause No 7.71</i>	<u>Clause No. 7.71.2</u>
Terms of payment	<p>Payment to the Successful Bidder will be made stage-wise as indicated below :-</p> <p>For the purpose of making payment to the successful bidder, the number of days of breakdown of any diving gear/equipment would not be considered.</p> <p>100% payment of monthly bill would be made within 30 days from the date of submission of unambiguous bill. Service Tax, if applicable for execution of work, will be paid extra on submission of CENVAT- able document.</p> <p>Payment will be made through ECS, for which necessary information regarding Bank Account must be provided in the bill.</p>
Penalty :	<p>In case of breakdown of any diving gear/equipment, if the successful bidder fails to repair or replace the said diving gear/equipment within 2 (two) days from the date of intimation of such breakdown, deduction @ 5% of daily hiring rate of all the diving gears/equipment would be made from the amount payable to the successful bidder including Earnest Money Deposit, for the entire time of non-availability of said diving gear/equipment.</p>

SECTION - IX
BIDDING FORMS

BIDDING FORM – I

MINIMUM ELIGIBILITY CRITERIA

[To be filled up and uploaded, duly signed & stamped]

(I) ANNUAL TURNOVER STATEMENT

The annual turnover of(name of the bidding firm), for the years **2015-16, 2016-17 and 2017-18** , based on the **Balance Sheets and Profit & Loss Accounts**, are given below:

Financial years	Turnover (as per Auditor's Report / Balance Sheet) [in Rs]
2015-2016	
2016-2017	
2017-2018	
<i>Total</i>	
<i>Average Annual Turnover</i>	

SIGNATURE OF CHARTERED ACCOUNTANT ::

NAME OF CHARTERED ACCOUNTANT ::

(COMPANY SEAL)

NOTE : Copy of Balance Sheets and Profit & Loss Accounts enclosed with sealed & signed.

(II) Details of diving equipment / gears of the bidder

The bidder must furnish documentary evidence(s) to substantiate the ownership and/or possession of diving equipment / gears through lease/hiring agreement/contract, as per the following format.

Sl. No.	Description of diving equipment / gear	Whether own or possess by leasing / hiring	Year of purchase / leasing / hiring	If owned, reference no. and date of documentary evidence proving ownership of diving equipment / gear	If possess by leasing / hiring, reference no. and date of agreement/contract for leasing / hiring of diving equipment / gear

TEST OF RESPONSIVENESS

[To be filled up and uploaded, duly signed & stamped]

	Requirement	Submitted/Not submitted [Put √ if submitted & X if not submitted]	Validity/ For the month of
a)			
i)	GST Registration Certificate.	<input type="text"/> If submitted, Page Number(s):	Not applicable.
ii)	Document in support of non-applicability.	<input type="text"/> If submitted, Page Number(s):	Not applicable.
b)			
i)	Profession Tax Clearance Certificate (PTCC) <u>OR</u> Profession Tax Payment Challan (PTPC)	<input type="text"/> If submitted, Page Number(s):	
		<input type="text"/> If submitted, Page Number(s):	
ii)	Document in support of non-applicability.	<input type="text"/> If submitted, Page Number(s):	Not applicable.
c)			
i)	Certificate for allotment of EPF Code No.	<input type="text"/> If submitted, Code No.: Page Number(s):	Not applicable.
ii)	Latest EPF Payment Challan.	<input type="text"/> If submitted, Page Number(s):	
iii)	Document in support of non-applicability.	<input type="text"/> If submitted, Page Number(s):	Not applicable.

d)			
i)	Registration Certificate of ESI Authority.	<input type="text"/> If submitted, Code No.: Page Number(s):	Not applicable.
ii)	Affidavit, Declaration and Indemnity Certificate.	<input type="text"/> If submitted, Page Number(s):	Not applicable.
e)	PAN Card	<input type="text"/> If submitted, PAN No.: Page Number(s):	Not applicable.
f)	MSME / MSE / DIC / SSI / NSIC certificate	<input type="text"/> If submitted, Page Number(s):	
g)	Power of Attorney	<input type="text"/> If submitted, Page Number(s):	Not applicable.

GENERAL INFORMATION OF THE BIDDER

[To be filled up and uploaded, duly signed & stamped]

1.	Bidder's Legal Name (IN CAPITAL LETTERS)		
2.	a)	Country of registration.	
	b)	Year of registration.	
	c)	Legal address in country of registration.	
	d)	URL of the bidder.	
3.	Information regarding bidder's authorised representative(s) / contact person(s)		
	a)	Name(s)	
	b)	Address(es)	
	c)	Telephone number(s)	
	d)	Facsimile number(s)	
	e)	Electronic mail address	

4.	a)	Address of the branch office, if any	
	b)	Name of the contact person at branch office	
	c)	Telephone number(s)	
	d)	Facsimile number(s)	
	e)	Electronic mail address	
5.	Whether the bidder is a Proprietorship Firm or Partnership Firm or Limited Company .		
6.	Details of the Banker(s) :		
	a)	Name of the Banker(s) in full.	
	b)	Address(es) of the Banker(s)	
	c)	Telephone number(s)	
	d)	Facsimile number(s)	
	e)	Electronic mail address	
	f)	Name(s) of the contact person(s)	
7.	Bank details for ECS payment :		
	a)	Bank Account number.	
	b)	Name of the bank.	
	c)	Name of the branch.	
	d)	Address of the branch.	
	e)	RTGS code of the branch.	
	f)	MICR code of the branch.	
8.	Income Tax and Goods & Services Tax (GST) details (if applicable):		
	a)	Permanent Account Number (PAN)	
	b)	GST Registration Number (GSTIN)	

BIDDING FORM-IV

FORMAT FOR DECLARATION

[To be printed on the bidder's Letter Head and uploaded after signing]

To,
General Manager (Engg.)
Haldia Dock Complex ;
Kolkata Port Trust.

Name of Work: Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.

Tender No. : SDM(P&E)/T/18/2018-2019

E-Tender No.: KoPT/Haldia Dock Complex/P&E Div/20/18-19/ET/303

I, the authorized signatory of the (Name of the Company /Firm) do hereby declare / confirm that :

* I / We have not been **debarred, banned or delisted** by any Government or Quasi-Government Agencies or Public Sector Undertakings in India.

I / we have not made any **addition / modification / alteration** in the **Bidding Documents** (including Bidding Forms & Contract Forms) hosted in the websites.

The prices have been quoted in the Price Bid, electronically, through the website of MSTC Ltd. only and no direct or indirect mention of the prices has been made by me / us anywhere else in my / our bid.

No extraneous conditions (like “Not Applicable”, conditional rebate, etc.), regarding the Price Bid, have been mentioned anywhere in our bid.

Signature of authorised person of the bidder
(with office seal)

* In case the **firm** has been debarred or banned or delisted by any Government or Quasi-Government Agencies or Public Sector Undertaking in India, then the same should be declared properly, after modifying the sentence, suitably.

BIDDING FORM-V

FORM OF TENDER

[To be printed on the bidder's Letter Head and uploaded after signing]

To,
General Manager (Engg.)
Haldia Dock Complex ;
Kolkata Port Trust.

Name of Work : *Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.*

Tender No. : SDM(P&E)/T/18/2018-2019

E-Tender No.: KoPT/Haldia Dock Complex/P&E Div/20/18-19/ET/303

I/We (Name of the bidder)of(Address of the bidder) having **examined the site of work, inspected the drawings** and read the **bidding documents** [including **all addenda / corrigenda**, issued i.e. {insert Addendum / Corrigendum / Extension No(s)}], hereby bid and undertake to execute & complete all the work related to “Design, Engineering, Supply, Construction, Erection, Testing and Commissioning including 10 years Comprehensive Operation & Maintenance (O&M) Contract of 1 MW (AC) Solar PV Power Plant at Haldia Dock Complex, Kolkata Port Trust”, required to be performed in accordance with the **Technical Specification, General Conditions of Contract (GCC), Special Conditions of Contract (SCC)**, etc., at the **rates & prices** quoted in the **Price Bid** [*submitted electronically, through the website of MSTC Ltd.*], withinmonth from the date of order to commence the work , in the event of our bid being accepted.

I/we also undertake to enter into a **Contract Agreement** in the form hereto annexed [**Section XI**] with such alterations or additions thereto, which may be necessary to give effect to the acceptance of the bid and incorporating such **Technical Specification, General Conditions of Contract (GCC), Special Conditions of Contract (SCC)**, etc. and I/we hereby agree that until such **contract agreement** is executed, the said **Technical Specification, General Conditions of Contract (GCC), Special Conditions of Contract (SCC)**, etc. and the bid, together with the acceptance thereof in writing, by or on behalf of the Employer, shall be the contract.

I / We requiredays preliminary time to arrange and procure the materials, tools & tackles, etc. required by the work, from the date of acceptance of bid, before I/we could commence the work.

I / We have deposited **Rs. (Indian Rupees:.....)** only using the **Axis Bank Payment Gateway**, vide **URN No.:**..... of, as **Earnest Money Deposit**.

I/We agree that the period for which the bid shall remain open for acceptance, shall not be less than **days**, from the last date of submission of bid.

(Signature of authorised person of the bidder)

WITNESS:

Signature:

Name : _____

Name:

(In Block Letters)

Designation : _____

Address:

Date : _____

Occupation:

(Office Seal)

BIDDING FORM-VI**UNPRICED
PRICE SCHEDULE****(To be downloaded, filled up, signed, scanned and uploaded)**

Tender for hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.

Sl. No.	Description of diving equipment / gears	Quantity (No.)
1.	Air Panel and Air Filter etc.	1
2.	Diver Communicators	1
3.	KMB	2
4.	Diving Suit	1
5.	Divers fins, booties, demand valve etc.	1
6.	Umbilical (divers hose) 100m	1

Signature of Tenderer with Office Seal

PART-II

PRICED BILL OF QUANTITIES

Tender for hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.

[THIS IS A SAMPLE PRICE BID]

Sl. No.	Description of diving equipment/gears	Quantity (No.)	Unit.	Rate (Rs)	Total Amount (Rs)
[A]	[B]	[C]	[D]	[E]	[F] = [C] X [E]
1.	Air Panel and Air Filter etc.	1	Per day hiring charge	BIDDERS NOT TO QUOTE HERE	
2.	Diver Communicators	1	Per day hiring charge		
3.	KMB	2	Per day hiring charge		
4.	Diving Suit	1	Per day hiring charge		
5.	Divers fins, booties, demand valve etc.	1	Per day hiring charge		
6.	Umbilical (divers hose) 100m	1	Per day hiring charge		
Total Cost					

.....
Signature of Tenderer with Office Seal

SECTION - X

CHECKLIST

Before scanning and upload the following required documents, all pages are to be signed by a person duly authorised to sign on behalf of the bidder, and are to be embossed with their official seal, owing responsibility for their correctness / authenticity. All pages of the aforesaid documents should be serially marked.

*The offered prices would be given in the “**Price Bid (Part-II)**” electronically, through the website of **MSTC Ltd.** only.*

Sl. No.	Particulars	Submitted/ Not submitted [Put <input type="checkbox"/> if submitted and put X if not submitted]	If submitted, page numbers
1.	Filled up checklist.	<input type="checkbox"/>	<input type="checkbox"/>
2.	Proof of Bid Document Fee .	<input type="checkbox"/>	<input type="checkbox"/>
3.	Proof of Earnest Money Deposit (EMD) .	<input type="checkbox"/>	<input type="checkbox"/>
4.	Certificate of getting benefit by MSME / SSI / NSIC for exemption of Bid Document Fee and Earnest Money ,	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
5.	Bidding Forms		
	i) Bidding Form – I	<input type="checkbox"/>	<input type="checkbox"/>
	ii) Bidding Form - II	<input type="checkbox"/>	<input type="checkbox"/>
	iii) Bidding Form – III	<input type="checkbox"/>	<input type="checkbox"/>

Sl. No.	Particulars		Submitted/ Not submitted [Put √ if submitted and <u>put X if not submitted</u>]	If submitted, <u>page numbers</u>
	iv)	Bidding Form - IV	<input type="checkbox"/>	<input type="checkbox"/>
	v)	Bidding Form – V	<input type="checkbox"/>	<input type="checkbox"/>
	vi)	Bidding Form - VI	<input type="checkbox"/>	<input type="checkbox"/>

SECTION – XI
CONTRACT FORMS

FORM OF AGREEMENT

(To be submitted on Non- Stamp Paper of worth not less than INR 50.00)

CONTRACT NO. : GM(E)/...../ /AGMT/...../.....

TENDER REFERENCE:

Tender No. : **SDM(P&E)/T/18/2018-2019**

E- Tender No. : KoPT/Haldia Dock Complex/P&E Div/...../18-19/ET/.....

for ***Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.***

ORDER REFERENCE: /...../ /O-... dated

This agreement made this day of, Two thousand,
BETWEEN

The Board of Trustees for the Port of Kolkata, a body corporate -- constituted by the Major Port Trust Act, 1963 (hereinafter called the ‘**Trustees**’, which expression shall unless excluded by or repugnant to the context be deemed to include their successors in office) of the one part

AND

..... (hereinafter called the ‘**Contractor**’, which expression shall unless excluded by or repugnant to the context be deemed to include its heirs, executors, administrators, representatives and assignees or successors in office) of the other part

[Together hereinafter the ‘**Parties**’]

WHEREAS

The Trustees are desirous that certain works should be executed by the Contractor, viz. ‘Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.’ and have accepted a Bid / offer by the Contractor for execution, completion and maintenance of such works, including remedying any defects therein, during the Defect Liability Period.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this agreement words expressions shall

NOW THIS AGREEMENT WITNESSETH as follows :

1. In this agreement words and expression shall have the same meanings as are respectively assigned to them in **Conditions of Contract** hereinafter referred to.
2. The following documents shall be deemed to form and be read and construed as part of this agreement :

- a) The said bid / offer.
- b) The Letter of Acceptance of the bid /offer [vide Order No./.../...../O-... dated]
- c) The Conditions of Contract and **Technical Specification** [all terms and conditions of Tender No. SDM(P&E)/T/18/2018-2019].
- d) Addenda [Please insert Addenda Nos.]
- e) “ Price Comparative Statement”, showing the prices quoted (electronically , through the website of MSTC Ltd.) by the Successful Bidder, in the Price Bid.
- f) All correspondence, by which the contract is added, amended, varied or modified, in any way, by mutual consent.

3. In Consideration of the payments to be made by the Trustees to the Contractor as hereinafter mentioned, the Contractor hereby covenant with the Trustees to execute, complete & maintain the work, including remedy any defects therein (during the Defect Liability Period”), in conformity with the provisions of the Contract, in all respects.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed the day and year first before written.

The parties hereunto affixed their respective Common Seals (or have hereunto set their respective hands and seals).

For and on behalf of

For and on behalf of

HALDIA DOCK COMPLEX
KOLKATA PORT TRUST
(TRUSTEES)

(CONTRACTOR)

SEAL

SEAL

In presence of

In presence of

INDEMNITY BOND

[To be submitted on Non-judicial Stamp Paper of worth not less than INR .50.00, **duly notarised**]

Reference:

Order No.:/...../...../O-... dated for Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust..

**Senior Deputy Manager (P&E),
Haldia Dock Complex ;
Operational Administrative Building (1st Floor) ;
Chiranjibpur, P.O.: Haldia ;
Dist. : Purba Medinipur ,
West Bengal, India
PIN : –721 604**

This deed of **Indemnity Bond** made on by having their office at (hereinafter called “the **Contractor**”).

Whereas the General Manager (Engineering), **Haldia Dock Complex, Kolkata Port Trust**, Dist.: Purba Medinipur, West Bengal (hereinafter call “the **Engineer**”) has placed an order, bearing no. SDM(P&E) //...../O-... dated and some materials, spare parts, components, sub-assemblies, etc. are required to be taken **outside of Haldia Dock Complex** premises for some specialized servicing, repairing, overhauling, etc. or **fault diagnosis & remedial measures** by the Contractor, as per the terms & conditions mentioned in the said order, and which have been mutually agreed upon by the parties hereto,

AND

Whereas in consideration of the said contract, the Contractor has agreed to execute an **Indemnity Bond** for the safe custody on receipt of the said materials, spare parts, components, sub-assemblies, etc., from the **Engineer** until the **completion of servicing / overhauling / repairing / remedial work** and returning back to the Engineer as hereinafter appearing.

Now this deed witnessed that in pursuance of the said agreement and in the premises, the Contractor agrees to indemnify Engineer and at all the terms, to hold themselves liable for all the **damages, loss** due to **pilferage / fire** or negligence on the part of the Contractor or their employees, agents and representatives or from whatever cause, with all losses, interest charges and expenses incurred by the said Engineer on account of the material(s) issued to the Contractor,

AND

It is in terms of the said contract and this **Deed of Indemnity**, the material(s) issued free to the Contractor for servicing / overhauling / repairing / **fault diagnosis & remedial work**, thereon shall be deemed to be the **property of the Engineer**.

It is hereby agreed that the Contractor shall be liable for all injury, losses and damages that may be caused to the, from whatever cause and further that the Contractor shall not part with or delivery possession of the said material(s) to any other party or person, save in compliance with and in performance & provision of contract in respect of which this **Indemnity Bond** is executed, the Contractor having undertaken to delivery the said material

(s) in all respect in compliance with the terms of the contract.

This bond and the trust hereby created shall remain valid and binding on the Contractor till such time as the above said order has been fully and finally executed and Contractor has delivered the complete thereon to the Engineer under the terms of the contract.

For and on behalf of (name of the Contractor), under the common seal of the company.

WITNESS

(Signature of the authorised person on behalf of the Contractor)

(Signature)

Name :

Name :

Designation

Designation

Signed in my presence and identified by me

:

Kolkata Port Trust
Haldia Dock Complex
CERTIFICATE OF COMPLETION OF WORK

Contractor : _____

Address : _____

Date of completion : _____

Dear Sir,

Subject : Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.

Reference : i) **Work Order No.:**/...../...../O-... dated
.....
ii) **Contract No./ Agreement No. :**/...../...../ AGMT /
...../

This is to certify that the above work which was carried out by you is, in the opinion of the undersigned, complete in every respect on the _____ day of _____ 20____, in accordance with terms of the contract and you are required to maintain the work in accordance with **GCC Clause No. 7.67** of the General Conditions of Contract and under provisions of the contract.

(Signature of the Engineer/Engineer's Representative)

Name:

Designation:

Date:

(OFFICIAL SEAL)

Kolkata Port Trust
Haldia Dock Complex
CERTIFICATE OF FINAL COMPLETION

**General Manager (Finance),
Haldia Dock Complex (HDC),
Jawahar Tower Complex,
P.O: Haldia Township,
Dist.: Purba Medinipur,
PIN – 721 607,
West Bengal, India.**

Subject : Hiring of diving equipment / gears on Annual Rate Contract basis for Haldia Dock Complex, Kolkata Port Trust.

Reference : i) **Work Order No.:**/...../...../O-... dated
.....
ii) **Contract No./ Agreement No. :**/...../...../ AGMT /
...../

This is to certify that the above work, which was carried out by is now complete in every respect, in accordance with the terms of the contract and that all obligations under the contract have been fulfilled by the Contractor.

(Signature of the Engineer/Engineer's Representative)

Name:

Designation:

Date:

(OFFICIAL SEAL)

(“NO CLAIM CERTIFICATE” FROM CONTRACTOR)

[To be submitted on Bidder’s Letter Head]

General Manager(Engineering)

Haldia Dock Complex ;
Kolkata Port Trust.
Engineering Department
Jawahar Tower Complex ;
P.O.: Haldia Township;
Dist.: Purba Medinipur ;
PIN: –721607
West Bengal, India.

Dear Sir,

Subject : Hiring of diving equipment / gears on Annual Rate Contract basis for
Haldia Dock Complex, Kolkata Port Trust.

Reference : i) **Work Order No.:**/...../...../O-... dated
.....
ii) **Contract No./ Agreement No. :**/...../...../
AGMT //

I/We do hereby declare that I/we have received full and final payment from Haldia Dock Complex, Kolkata Port Trust, for the execution of the subject work, and I/we have no further claim against Haldia Dock Complex, Kolkata Port Trust in respect of the above mentioned job.

Yours faithfully,

(Signature of Contractor)

Date :
Name of Contractor :
Address :

(OFFICIAL SEAL OF THE CONTRACTOR)