



Mumbai Port Authority

Civil Engineering Department

TENDER DOCUMENT
Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT
DOUGALL HOUSE GARDEN, COLABA,GWSD.”**

First Cover – Technical Bid
FOR ENLISTED BIDDERS ONLY

Civil Engineering Department

3rdfloor, 'Port House', Shoorji Vallabhdas Marg,

Ballard Estate, Mumbai – 400 001

Tel. No.: +91-22-66564521

FAX No.: +91-22-22616804

Website: <http://www.mumbaiport.gov.in>

Any amendments to this tender including the dates, corrigendum, clarifications, if any etc. shall **only** be posted on the website of Mumbai Port Authority & the e-portal of Govt. of India (www.mumbaiport.gov.in&www.eprocure.gov.in). The tenderers are required to keep themselves informed of the developments by visiting websites regularly.

Mumbai Port Authority
Civil Engineering Department
Tender No.E-71/2023

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COLABA, GWSD.”**

Contents of Tender Document

First Cover – Technical Bid

Sl. No.	Contents
1.	Contents of Tender Document
2.	Tender Schedule
3.	Salient Features
4.	Tender Notice
5.	Instructions for Online Bid submission
6.	Instructions for preparation and submission of Tender
7.	General Conditions of Contract
8.	Special Conditions Of Contract
9.	Annexure 1 – Draft Letter of Application
10.	Annexure 2 – Undertaking by the Tenderer
11.	Annexure 3 – Tenderer’s Particulars
12.	Annexure 4 – Annual Financial Turnover
13.	Annexure 5 – Experience of Similar Work
14.	Annexure 6 – ECS Mandate Form
15.	Annexure 7 – Integrity Pact
16.	Annexure 8 - Non Disclosure Agreement
17.	Annexure 9 – Power of Attorney
18.	Proforma – I – Generalised Draft of Contract Agreement
19.	Proforma – II – Guarantee Bond
20.	Proforma – III (A) – Specimen Bill Form 1 (For Estimated Bill)
21.	Proforma – III (B) – Specimen Bill Form 2 (For Measured / Final Bill)
22.	Proforma – IV - EMD – BANK GUARANTEE FORMAT
23.	Technical Specifications



Mumbai Port Authority
Civil Engineering Department
Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA,
GWSO.”**

TENDER SCHEDULE

Sr. No.	Particulars	Date	Time
1.	Tender e-publication date	08.12.2023	10:00 Hrs.
2.	Document Download start date	08.12.2023	10:00 Hrs.
3.	Document Download End Date	28.12.2023	15:00 Hrs.
4.	Pre Bid Meeting Date	15.12.2023	15:00 Hrs.s
5.	Bid Submission Start Date	22.12.2023	10:00 Hrs.
6.	Bid Submission End Date	28.12.2023	15:00 Hrs.
7.	Technical Bid Opening Date	29.12.2023	15:00 Hrs.
8.	Price Bid Opening Date	Will be Conveyed subsequently after Technical Bid Scrutiny	

Pre Bid Meeting as mentioned in Bidding Schedule will be held at Chief Engineer’s chamber, 3rd Floor, Port Bhavan, Shoorji Vallabhdas Marg, Fort, Mumbai- 400001. Prospective bidders are requested to mail their Pre Bid queries to Chief Engineer at chiefengineer@mumbaiport.gov.in and copy to Shri. D. L. Pawar, Executive Engineer at dl.pawar@mumbaiport.gov.in till the date mentioned in the bidding schedule. The replies to the Pre Bid Queries will be published on CPP Portal and MbPA website.

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Civil Engineering Department

Tender No.E-71/2023

“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”

Salient Features of the Tender

Sr. No.	Particulars	Details
1.	Name of Work	Tender No. E- 82/2023 “CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”
2.	Scope of Work	The proposed work comprises of 1) Renovation work including FACADE restoration work. 2) Structural restoration work, flooring work. 3) Fabric restoration work, Electric work including MS lights, Antique lights, and spike lights. 4) Other miscellaneous works including providing water fountain, providing and fixing 12'x6' Mural made in FRP mould. 5) Carrying out Warli paintings. 6) Providing and fixing designer printed glass for windows. 7) providing and fixing polycarbonate sheeting and 8) Providing outdoor folding Table and Chair set made of Sheesham.
3.	Cost of work put to tender	Rs. 19,84,006.40 /-(exclusive of GST)
4.	Tender Fee	Rs. 5250/-(including 5% GST) payable online at www.eplatform.mbptedi.gov.in
5.	Earnest Money Deposit	Rs. 40,000/- (Rupees Forty thousand only). payable online at www.eplatform.mbptedi.gov.in
6.	Security Deposits	Security Deposit (SD): a) Performance Security Deposit (PSD) equivalent to the 5 % of the contract value. b) Additional Security Deposit for abnormally low bids: - In case the contractors offer is more than fifteen percent (15%) below the cost of work put to tender. c) Retention Money (RM) equivalent to five percent (5%) of Contract Price, deducted at the rate of five percent (5%) of the gross value of work certified in each bill. PSD and ASD(If applicable) is payable in the form of DD/Pay order and Bank Guarantee from Scheduled/ Nationalised Banks carrying on business in Mumbai and to be approved by the Employer.
7.	Completion Period	The work is proposed to complete in FOUR months (Excluding monsoon) from the date of release of site. Monsoon period is considered from 1st June to 30th September.
8.	Validity of Offer	90 days from the date of opening of First Cover
9.	Price Variation	Not applicable
10.	Material Advance	Not applicable

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“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”

Tender Notice

1. Invitation:

- 1.1. Digitally signed and uploaded, Online bids under Single Stage Two Cover system on percentage rate basis are invited by the Chief Engineer on behalf of The Board of Mumbai Port Authority (also referred to as Mumbai Port Authority) from the Heritage Conservation Contractors Shortlisted by MbPA and are experienced, resourceful with proven technical and financial capabilities for execution of the work of **“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”**
- 1.2. Interested eligible tenderers from the shortlisted firms may obtain further information and inspect the tender documents at the e-Procurement website <https://eprocure.gov.in/eprocure.gov.in/app> This website can also be accessed by clicking the link at MBPA’s Website <http://www.mumbaiport.gov.in>.
- 1.3. The Tender is to be submitted under two cover system, the first cover containing technical information and second cover containing the price bid.
- 1.4. Salient Features / Scope of the Work.
- Renovation work including FACADE restoration work.
 - Structural restoration work, flooring work.
 - Fabric restoration work, Electric work including MS lights, Antique lights, and spike lights.
 - Other miscellaneous works including providing water fountain, providing and fixing 12'x6' Mural made in FRP mould.
 - Carrying out Warli paintings.
 - Providing and fixing designer printed glass for windows.
 - providing and fixing polycarbonate sheeting and
 - Providing outdoor folding Table and Chair set made of Sheesham.

a)	Estimated Cost	Rs. 19,84,006.40 (exclusive of GST)
b)	EMD	Rs. 40,000/- shall be paid online as described in Tender Notice.
c)	Completion Period	Four (4) Months (excluding monsoon) from the date of release of site.
d)	Free Maintenance Period	One year from the date of completion of work
e)	Liquidated Damages	The liquidated damages for delay to complete the work covered under this tender is 0.50% (1/2 %) of the contract price for delay of each week or part thereof in completion of work subject to maximum ceiling of 10% of contract price.

2. Eligibility Criteria:

2.1. To qualify for the tender, the tenderer must satisfy the Financial and Technical eligibility criteria, as detailed in Table below.

Estimated Cost of Work in Rs. Lakhs	Financial Criteria	Technical Criteria				
	Minimum Average annual financial turnover during the last THREE years ending 31.03.2023 in Rs. Lakhs	<u>THREE</u> similar works completed during last SEVEN years ending 30.11.2023 <u>each</u> costing not less than in Rs. Lakhs	OR	<u>TWO</u> similar works completed during last SEVEN years ending 30.11.2023 <u>each</u> costing not less than in Rs. Lakhs	OR	<u>ONE</u> similar work completed during last SEVEN years ending 30.11.2023 <u>each</u> costing not less than in Rs. Lakhs
(1)	(2)	(3)		(4)		(5)
19.84	7.02	18.73		11.70		9.36

Note:

- “Similar works” shall mean the completed work consisting of ‘**General Civil Engineering works related to Gardening.**
- The firm shall have successfully completed ‘similar work/s’ as ‘Prime contractor’ or approved sub-contractor’ from the Principal Employer with reference being submitted to confirm satisfactory performance from the employer.

2.2. Joint Venture / Consortium:

(Joint venture is not allowed for this Tender. (Refer Clause 2 of SCC))

The Bids from JV / Consortium with two partners will also be considered. Both partners of JV/Consortium shall be legally liable, jointly and severally during the bidding process and for execution of contract in accordance with contract terms. JV / Consortium shall declare the lead partner in MOU. The share of lead partner shall not be less than 51% in JV / Consortium. The share of other partner shall not be less than 26%. The MOU executed by the JV members shall be submitted along with the tender.

The JV must comply the following minimum requirements: -

- The lead partners must meet all the specified technical experience criteria as per 2.1 above.
- The lead partner should also fulfil at least 40% of the specified financial criteria.
- The other partner should also fulfil at least 26% of the specified financial criteria.
- Lead Partner shall be the authorized member to act as single point contract and be responsible on behalf of JV.
- A member of JV firm shall not be permitted to participate either in individual capacity or as a member of another JV firm for subject tender.
- Then maximum number of firms in a JV shall not be more than three (3).

- 2.3. The tenderer shall furnish complete information in respect of their firm, including financial and technical capabilities etc.in Annexure '1 to 7' enclosed with the Tender document.
- 2.4. The tenderers will be qualified based on the Eligibility criteria detailed in Clause No.2.1. The Second Covers of the qualified tenderers will be opened on the date and time, which will be intimated to them subsequently.
3. Pre Bid Meeting will be held at Chief Engineer's chamber, 3rd Floor, Port Bhavan, Shoorji Vallabhdas Marg, Fort, Mumbai- 400001. Prospective bidders are requested to mail their Pre Bid queries to Chief Engineer at chiefengineer@mumbaiport.gov.in and copy to Shri. D. L. Pawar, Executive Engineer at dl.pawar@mumbaiport.gov.in till the date mentioned in the bidding schedule. The replies to the Pre Bid Queries will be published on CPP Portal and MbPA website.
4. **Procedure for obtaining Tender Documents:**
 - 4.1. Interested tenderers will have to download the tender document from MBPA website www.mumbaiport.gov.in and/or www.eprocure.gov.in. The downloading of the tender documents shall be carried out strictly as provided on the web site. No editing, addition / deletion of matter shall be permitted, if such action is observed at any stage, such bid is liable for outright rejection.
 - 4.2. The bidder is responsible to download Addendums/ Amendments/ Errata/ replies to the queries of the bidder etc. if any, issued by the employer, from web site before the submission of the Bid Document. Any shortfall in submissions of the said Addendum/ Amendments/ Errata/ replies to the queries of the bid document, etc. along with the downloaded documents while submitting the bid documents will not be considered. Incomplete Bid documents shall be rejected outright.
5. **Bid Submission**
 - 5.1. The detailed procedure for online bid submission has been provided in "Instructions for Online Bid Submission" of this tender.
 - 5.2. Complete bid submission is online on the website www.eprocure.gov.in. The payment of Tender Fee & EMD shall be done online. Tenderer shall visit <https://eplatform.MBPTedi.gov.in> for making the payment for **Tender Fee & EMD** and choose the option "Latest Tenders" on the dashboard. After selecting the relevant tender, the tenderer can make online payment after entering the basic details of bank for refund purpose, the receipt generated as PDF file shall be uploaded by the tenderer on CPP Portal under relevant option as a proof for the payment, failing which Tender will not be opened. The details of bank payment reference number and payment date also need to be entered while uploading in the relevant fields.

5.3. **The following documents are required to be submitted online:**

Sr. No.	Documents to be submitted online
1	Copy of the online receipt for EMD & Tender fee.
2	Scanned copy of duly filled & signed Annexure 1: Letter of Application on Letter head of Bidder Annexure 2: Undertaking by the Tenderer Annexure 3: Tenderer's Particulars Annexure 6: ECS Mandate or Bank certified NEFT document with cancelled cheque Annexure 7: Integrity Pact Annexure 8: Non-Disclosure Agreement Annexure 9: Power of Attorney (Notary attested copy)
3	a) Annexure 4: Annual Financial Turnover with signature of CA OR (Separate Annual Financial Turnover Certificate issued by Chartered Accountant. AND Profit & Loss Account statement of last three financial years Certified by Chartered Accountant.)
4	Scanned copy of duly filled & signed Annexures along with Supporting Documents for Eligibility criteria. a) Annexure 5: Experience of Similar Work b) Additional Documents: ➤ Completion Certificate issued by the Principle Employer ➤ Copy of TDS certificate from the previous employer or Form 26 AS from IT Department as evidence to establish the work experience.
5	Scanned copy of following certificates: ➤ Power of Attorney of signatory to Tender (Notary attested copy) ➤ Attested copies of following documents Names, Addresses & ages of partners and Deed of Partnership OR Memorandum and Articles of Association of the Company. ➤ Copy of PAN card issued by Income Tax authorities. ➤ Copy of GST Registration ➤ Copy of Registration of Employee's Provident Fund Organization ➤ copy of registration with Employee's State Insurance Corporation
6	Technical Bid (First Cover) in full duly filled in and signed on relevant pages.
7	Price Bid - Second Cover in full duly filled in and signed at required places along with BOQ in PDF and Excel file.

5.4. **Price Bid:**

The bidder shall submit his offer in BOQ online in the format provided in Price Bid. The items of Bill of Quantities are provided in the PDF format (.pdf file) Bidders are requested to quote the tender percentage in the Excel file (.xls) published along with this tender. Price bid should not be submitted in hard copy

format in any case.

5.5. Tender fee.

The bidder has to pay non-refundable tender fee of **Rs.5250/-** (Rupees Five Thousand Two Hundred Fifty only) (Inclusive of 5% GST) payable online at www.eplatform.mbptedi.gov.in

5.6. The Earnest Money Deposit

The Earnest Money Deposit (E.M.D.) payable in respect of this tender is **Rs.40,000/-**(Rupees Forty thousand only). EMD is payable online at www.eplatform.mbptedi.gov.in The Earnest Money shall be lodged by the tenderer on the understanding that in the event of the tenderer withdrawing his tender before the expiry of the tender validity period stipulated in the Tender Notice, the Earnest Money deposited by the tenderer shall be forfeited. Please refer clause no. 2 of Instructions for Preparation and Submission of Tender for further details.

5.7. MBPA registered contractors cannot avail PEMD facility if they are quoting for two cover open tenders. They have to pay EMD as per tender provision.

5.8. Bids will not be considered in case the EMD, Tender Fee is not submitted in the form and manner described at 5.2 & 5.3 above.

6. The tender documents are NOT TRANSFERABLE.

7. Completion period

The Completion period for the work covered under this tender is Four Months (4) (excluding monsoon) from the date of release of site. Monsoon Period is considered from 01st June to 30th Sep. Provisions of clause no 4 of SCC may be referred for further details.

8. The bidders shall give an undertaking as per **Annexure-'2'** that they have not made any payment or illegal gratification to any person/ authority connected with the bid process so as to influence the bid process and have not committed any offence under the PC Act in connection with the bid.

9. The bidders shall disclose any payments made or proposed to be made to any intermediaries (agents etc.) in connection with the bid.

10. "The Board of Mumbai Port Authority" reserves the right to reject any or all tenders without assigning any reasons thereof.

11. "The Board of Mumbai Port Authority" reserves the right to cancel the contract at any stage of contract without assigning any reasons thereof.

12. The rates quoted by the contractor shall be **exclusive of GST** but inclusive of all other incidental charges that the contractor may have to bear for the execution of the works.

- 13. Goods and Service Tax (GST) as applicable shall be reimbursed to the contractor through the interim bills against the invoices raised.** However, the taxes like Income Tax etc. will be deducted at source as applicable as per prevailing rules and regulations.
- 14.** For any details/clarification Shri. Deepak Pawar, Executive Engineer, 3rd floor Port Bhavan, S V Road, Mumbai 400 001 may be contacted on 66564526 or 7977612434 or at e-mail: dl.pawar@mumbaiport.gov.in
- 15.** The successful Bidder shall comply with all prevailing Central and state laws.
- 16.** The successful Bidder shall make payment to his workers/staff deployed for the execution of the work as per Minimum Wages notifications issued by the Govt. of India and comply with the provisions of PF and ESIC in respect of his employees.
- 17.** Tender document and extension or any other notice/ corrigendum/ addendum/ clarification, if any, are being uploaded in the website of MBPA (www.mumbaiport.gov.in), cpp portal <https://eprocure.gov.in/eprocure/app>. Bidders are advised to visit the websites regularly.
- 18. Non-Disclosure Agreement:** The bidder has to download the Non-Discloser Agreement, sign same and shall upload scanned copy of same with the Bid. The scanned copy of Non- Discloser Agreement signed by the Bidder when uploaded by the bidder shall be treated as Non-Disclosure Agreement, till the formal execution of Non-Disclosure Agreement by the successful bidder
- 19.** The contractor will be required to submit evidence of payment of wages to the labour/ workmen in to their bank account, the statement of remittance towards wages, EPF & ESIC for all labours engaged for the subject work along with their bills duly verified by the Executive Engineer and an Officer of the Welfare Division of Mumbai Port Authority. The wages and remittances for ESIC, EPF etc. shall be in accordance with the prevailing labour laws, rules and regulations governing the minimum wages Act. The contractor's bills will not be processed / passed/ in case of non-compliance of these provisions in the contract.
- 20. Liquidated damages:** The liquidated damages for delay to complete the work covered under this tender is 0.50% (1/2 %) of the contract price for delay of each week or part thereof in completion of work subject to maximum ceiling of 10% of contract price. However, if the work is delayed by more than 25% of the contracted completion period, the contract is liable to be terminated and the balance works shall liable to be got completed by MbPA through other agency at the risk and cost of the defaulting contractor, as set out in clause No.9.5.3 of the conditions of contract hereinafter contained.

21. INTEGRITY PACT

1. The scanned copy of Integrity Pact (IP) Agreement signed by the employer is uploaded along with the tender document. The bidder has to download the IP Agreement, sign and shall upload the same scanned copy of signed IP Agreement along with the bid.
2. In case of a joint venture, all the partners of the joint venture should sign the IP. In case of sub-contracting, the Principal Contractor shall take the responsibility of the adoption of IP by the sub-contractor.
3. The person signing IP shall not approach the Courts while representing the matters to IEM and he/she will await their decision in the matter.
4. The unsigned scan copy of IP Agreement by the bidder shall be treated as invalid and the bid shall be considered as non-responsive bid.
5. In case the letter of intent / work order of contract / procurements is for Rs. 45 Lakhs and above, the successful bidder shall execute Integrity Pact Agreement on stamp paper of appropriate value. The scanned copy of Integrity Pact Agreement signed by the Employer, Bidder and uploaded by the bidder with the tender document shall be treated as Integrity Pact, till the formal execution of Integrity Pact by the successful bidder.
6. IP essentially envisages an agreement between prospective vendors / bidder, and Mumbai Port Authority, committing the person / officials of both sides to not to resort to any corrupt practice in any aspect of the contract at any stage. Only those vendors / bidders who commit themselves to IP with MbPA, would be consider for evaluation of bid. IP would be implemented through Independent External Monitor (IEM), eminent person appointed by MbPA with approval of Central Vigilance Commission. The IEM would asses independently and objectively, as to whether and what extent the parties have complied with their obligations under the IP. IEM would have access to all contract documents, whenever required. The bidder may raise disputes / complaints if any with the IEM. The IEM would examine complaints received by him and give his recommendations / views to the Chairman of Mumbai Port.
7. Shri Rajiv, IPS (Retd), Ex-Vigilance Commissioner, CVC and Shri V. Kannan, Ex-CMD, Vijaya Bank have been nominated as Independent External Monitors (IEMs) for the implementation of Integrity Pact whose address is as under:

<p>Shri Rajiv, IPS (Retd), Ex-Vigilance Commissioner, CVC Bungalow No.88, New Motibagh, New Delhi-110021 Mobile No. +91-9818916161 Email: shreerajiv1975@gmail.com</p>	<p>Shri V. Kannan, Ex-CMD, Vijaya Bank TA-1, Krishna Regency, Third Floor, Tata Silk Farm, K. R. Road, Basavanagudi Bangalore-560004 Mobile No. +91-8105305555 Email: kannan.venkata@gmail.com</p>
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22. Power of Attorney

Power of Attorney to sign the tender document is mandatory in case of following cases.

- a. Proprietary Firm: Only in case of signatory is other than Proprietor.
- b. Partnership Firm: in the name of signatory whether he is any one of the partner or employee.
- c. Private Limited Firm: i) in the name of signatory if he is employee.
ii) Board resolution if the signatory is Managing director or any of the director.

In case Power of attorney is applicable, Bidders should submit Notarised Power of Attorney on **Rs.500/- Stamp Paper** authorizing the signatory to sign the tender document.

**Chief Engineer
Mumbai Port Authority**

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA,
GWSD.”**

Instructions for Online Bid Submission

1. The bidders are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids online on the CPP Portal.

More information useful for submitting online bids on the CPP Portal may be obtained at: <https://eprocure.gov.in/eprocure/app>

REGISTRATION

- 1) Bidders are required to enrol on the e-Procurement module of the Central Public Procurement Portal (URL: <https://eprocure.gov.in/eprocure/app>) by clicking on the link “**Online bidder Enrolment**” on the CPP Portal which is free of charge.
- 2) As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.
- 3) Bidders are advised to register their valid e-mail address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.
- 4) Upon enrolment, the bidders will be required to register their valid Digital Signature Certificate (DSC) (Class II or Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify / nCode / e-Mudhra etc.), with their profile.
- 5) Only one valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSC’s to others which may lead to misuse.
- 6) Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

SEARCHING FOR TENDER DOCUMENTS

- 1) There are various search options built in the CPP Portal, to facilitate bidders to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.
- 2) Once the bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective 'My Tenders' folder. This would enable the CPP Portal to intimate the bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.
- 3) The bidder should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

PREPARATION OF BIDS

- 1) Bidder should take into account any corrigendum published on the tender document before submitting their bids.
- 2) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.
- 3) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document / schedule and generally, they can be in PDF / XLS / RAR / DWF/JPG formats. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.
- 4) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use "My Space" or "Other Important Documents" area available to them to upload such documents. These documents may be directly submitted from the "My Space" area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

SUBMISSION OF BIDS

- 1) Bidder should log into the site well in advance for bid submission so that they can upload the bid in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.
- 2) The bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.
- 3) Bidder has to select the payment option as “offline” to pay the tender fee / EMD as applicable and enter details of the instrument.
- 4) The payment of Tender Fee and EMD shall be done online. Tenderer shall visit <https://eplatform.mbptedi.gov.in> for making the payment for Tender Fee and EMD and choose the option “Latest Tenders” on the dashboard. After selecting the relevant tender, the tenderer can make online payment after entering the basic details of bank for refund purpose, the receipt generated as PDF file of EMD/Tender Fee/ or both (as the case maybe) shall be uploaded by the tenderer on CPP Portal under relevant option as a proof for the payment, failing which Tender will not be opened. The details of bank payment reference number and payment date also need to be entered while uploading in the relevant fields.
- 5) Bidders are requested to note that they should necessarily submit their online financial bids in the format provided in the tender and no other format is acceptable. If the price bid has been given as a standard BOQ format with the tender document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the BOQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the bidder, the bid will be rejected.
- 6) Bidders are requested to note that they should submit their online financial bids in the format provided in the tender and no other format in acceptable.
- 5a) Price Bid: The bidder shall submit his offer in BOQ online in the format provided in Price Bid. The items of Bill of Quantities are provided in the PDF format (.pdf file) Bidders are requested to quote the tender percentage in the Excel file (.xls) published along with this tender. Price bid should not be submitted in hard copy format in any case.
- 7) The server time (which is displayed on the bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.
- 7) All the documents being submitted by the bidders would be encrypted using PKI

encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid opener's public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.

- 8) The uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 9) Upon the successful and timely submission of bids (i.e. after Clicking "Freeze Bid Submission" in the portal), the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.
- 10) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

ASSISTANCE TO BIDDERS

- 1) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender.
- 2) Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk. The contact number for the helpdesk is 1800 3070 2232. Foreign bidder can get help at +91-79-40007451 to 460.

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA,
GWSD.”**

Instructions for Preparation and Submission of Tender

On line Tenders in Single Stage Two Cover (technical bid and price bid) are invited for the work of Tender No. **E-71/2023** : **“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”**

- 1.1 The tenders will be received by the Employer on Line at www.eprocure.gov.in as mentioned in Tender Notice. The Employer may at their discretion extend the date for receiving tender.
- 1.2 The tenderers are advised to acquaint themselves with the job involved at the site, examine the buildings & premises, climatic conditions, availability of labour, quarry materials, equipment, means of transport, communication facilities, entry restrictions, laws and bylaws of Govt. of Maharashtra or Govt. of India and any other statutory bodies and collect all information that maybe necessary for preparing and submitting the BID and entering into the contract.
- 1.3 The Tenderers shall bear all the costs of visiting the site, collecting the information and for preparing and submitting the bid.
- 1.4 The Tenderer and or his servants and agents will be granted permission to visit the site for the purpose of inspection. The Tenderer will be fully responsible for any injury (whether fatal or otherwise) to himself or his servants and agents or 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. The Tenderer 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 Tenderer or his servants and agents.
- 1.5 The Tender prepared by the tenderer, all documents and correspondence in respect of or in connection with the tender and the work to be executed hereunder shall be in English Language only.
- 1.6 The Tenderer shall examine carefully, all instructions, General Conditions of Contract, Specifications, Bill of quantities, Scope of work, Drawings etc. and all documents issued along with and for the purpose of tender, any amendments made there to from time to time, conditions, nature of the ground and substrata, quantity and nature of work, materials necessary for the completion of work, climatic conditions, means of access to the site, the existing roads and other means of communication, and in general shall be deemed to have been examined and obtained all necessary information as to risks, contingencies and

other circumstances which may influence or affect his tender. Failure to comply with the requirements of the tender documents will be on tenderers own risks. Tenders, who are not substantially responsive to the requirement of the tender documents, are liable to be rejected.

- 1.7 Tenderer shall bear all costs for preparation and submission of his tender. Employer will not be responsible for or pay for any expenses or losses, which might be incurred or suffered by any tenderer in connection with submission of tender.

2. **Earnest Money Deposit (EMD):**

- 2.1 The Earnest Money to be deposited in respect of this tender is Rs. 40,000/-.
 - 2.2 Tender Fee and EMD shall be paid online at <https://eplatform.mbptedi.gov.in> and the payment receipt is to be submitted online at CPP portal.
 - 2.3 The Earnest Money shall be lodged by the tenderer on the understanding that in the event of the tenderer withdrawing his tender before the expiry of the tender validity period stipulated in the Tender Notice, the Earnest Money deposited by the tenderer shall be forfeited.
- 2.1. EMD above Rs.10.00 Lakh can be paid by BG. The format of the Bank Guarantee is enclosed as Proforma IV. The Bank Guarantee shall be encashable in the branch situated in Mumbai. The Bank Guarantee for EMD/ bid Security shall be valid for eight months from date of opening of first cover.(Not applicable to this Tender)
 - 2.2. Tenders if not accompanied by the requisite Earnest Money Deposit (EMD) and in the manner described at 5.2 & 5.3 of Tender notice shall be left out of consideration.
 - 2.3. Proper receipt for having received the Earnest Money Deposit (EMD) shall be issued to the Tenderers after opening the Tenders.
- ### 2.4. **Refund of Earnest Money Deposit:**
- (a) EMD/Bid security of the unsuccessful bidders will be returned at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. EMD /Bid security of the successful bidder will be refunded on receipt of performance security. However, in case of two cover tender, Bid securities of unsuccessful bidders during first stage i.e. technical evaluation etc. will be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.
 - (b) Bid Security/EMD of the successful contractor will be refunded after the Contractor submits the Performance Security and Addl. Security Deposit.
 - (c) The return of Earnest Money will be effected through ECS/ Banker's Cheque. In case of ECS, the tenderers are required to furnish particulars of the bank

to which the amount of EMD is to be credited, in a mandate form Annex -6. Tenderers also have to surrender the original EMD receipts.

3. The tenderer shall submit with his tender Permanent Account Number (PAN) and GST Number, Copy of latest income tax clearance certificate and also his sales tax registration number if any.
4. The Tender shall remain valid and open for acceptance for a period of 90 days from date of opening of first cover. The Employer reserves their right to extend the period of validity for a specific time. The request and the response thereto shall be made in writing or by Fax, E-mail or telex. The Tenderers will have an option to refuse the request without forfeiting his tender security. However, in the event of the tenderer agreeing to the request, he will not be permitted to modify his tender. In the event of the tenderer agreeing to the extension, the Tenderer shall correspondingly extend the validity of his tender security.

5. **Eligibility and Qualification Requirement:**

To be eligible for award of contract, tenderers shall provide satisfactory evidence to the Employer of their eligibility and of their capability and adequacy of resources to carry out the subject contract effectively in addition to documents evidencing fulfilment of all the minimum qualifying criteria as stipulated in the "Tender Notice ". The tenderer may also submit following information.

- a) Copies of original Documents defining the constitution or legal status, place of registration and principal place of business of the company or firm or partnership.
 - b) Details of the experience and past performance of the Tenderer on works of a similar nature for past seven years and details of current works in hand and other contractual commitments in the format prescribed in Tender Documents
 - c) Qualifications and experience of the key personnel proposed for administration and execution of the Contract, both on and off site.
 - d) Major items of construction plant and equipment.
 - e) Reports on the financial standing of the Tenderer as prescribed in the tender document including profit and loss statements, balance sheets and auditor's reports for the past three years and an authority from the Tenderer for the Employer to seek reference from the Tenderer's bankers.
 - f) Information regarding any current litigation in which the Tenderer is involved.
6. At any time prior to the last date for submission of tenders, the employer may for any reason whatsoever change or modify the tender documents by amendments.

The amendments so carried out will be hosted on e-procure & MBPA website. The amendment so carried out will form part of the tender and shall be binding upon the Tenderers. The Employer may at their discretion extend the last date for submission of the tenders to enable the Tenderers reasonable time to submit their tender after taking into consideration such amendments. The responsibility of downloading such documents from above website fully lies with the Tenderer.'

7. The tenderers are required to enter at the end of the Schedule of Quantities and Rates, the percentage addition or deduction. The items of the Schedule of Quantities & Rates are published in the PDF file and the bidder is required to quote their percentage rate in the Excel file published with the tender. The percentage addition/ deduction will apply to the rates for each of the items in the Schedule of Quantities and Rates without reference to quantity or location of the work or any variation in the estimated quantity. The percentage addition/ deduction shall be quoted by tenderer having regard to the specification, conditions of contract and all other provisions in the tender document, and no variation in rates etc. will be allowed on any ground such as mistake, misunderstanding etc. after the tender has been submitted.
8. The price quoted by the Tenderer shall be inclusive of the cost of provision of plant and equipment, materials, labour, execution, supervision, maintenance, overheads and profits and every incidental and contingent cost and charges whatsoever **excluding GST** as per Govt. Notifications etc. necessary for proper execution and maintenance of the works.
9. The tender documents shall not be defaced or detached. Additions and alterations or interpolations shall not be made in the tender document.
10. The tenderer shall submit his tender strictly based on MBPA's design and specifications.
11. Inspection of Site: Tenderers are strongly advised to inspect the site of work and acquaint themselves with the site conditions and quantum of work involved etc. before tendering. Access to the site for inspection will be arranged by Superintending Engineer (GWSD), Telephone No.66564582, or by Shri. Deepak Pawar, Executive Engineer, 3rd floor Port Bhavan, S V Road, Mumbai 400 001 may be contacted on 66564526 or 9969576721 or at e-mail: dl.pawar@mumbaiport.gov.in
12. **Pre-Bid Meeting**
 - 12.1. Pre-Bid Meeting of the Bidders shall be convened in the Chamber of Chief Engineer, Civil Engineering Department, Mumbai Port Authority, 3rd floor, 'Port House', S.V. Marg, Ballard Estate, Mumbai – 400 001 at date and time as mentioned in tender activity sheet. A maximum of two representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.

- 12.2. During the course of Pre-Bid meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
13. PRICE BID: The Price Bid shall be opened online at www.eprocure.gov.in on a date to be fixed later and intimated to all the responsive and eligible tenderers. The Price Bid shall be opened if the Tenderer's submission in Technical Bid satisfies / includes all requirements and the same are found acceptable to the Employer / Mumbai Port Authority i.e. price bids of only technically qualified tenderers / bidders will be opened.
- 13.1. Conditional Tender will be liable to be rejected / reviewed if it is found that;
- i) The Tenderer proposes any alteration in the work specified in the tender or in time allowed for completing the works or indicate any other unacceptable condition.
 - ii) All corrections are not initialled by the tenderer.
 - iii) Disclosure/indication of the price in the technical bid.
- 13.2. After the public opening of Tenders, information relating to the clarification, evaluation and comparisons of Tenders and recommendations concerning the award of contract shall not be disclosed to Tenderers or any other(s). Any efforts by the tenderer to influence the Employer, in the process of examination, clarification, evaluation and comparison of tenders and decisions concerning award of contract may result in the rejection of the tenderer's tender.
- 13.3. To assist in the evaluation and comparison of tenders, the employer may ask tenderers, individually for clarifications of their tenders. The request for clarification and the response shall be in writing or by fax or by email, but no change in price or substance of the tender shall be sought, offered or permitted nor the tenderer be permitted to withdraw his tender before the expiry of the tender validation period.
- 13.4. The employer will determine whether the tender is responsive to the requirements of the tender documents. Responsive tender is one which inter alia conforms to all the terms, general conditions and specifications of the tender documents and technically suitable.
- 13.5. Tenders determined to be responsive will be checked by the Employer for any arithmetical errors in computation and summation. Where there is a discrepancy between the unit price and total amount derived from the multiplication of the unit's price and the quantity, the unit price as quoted will govern.
- 13.6. Prior to the expiration of the prescribed period of tender validity or such extended period the Employer will notify the successful tenderer, by email or telex, fax confirming in writing by registered letter that his tender has been

accepted. The notification of award will constitute the formation of the contract. Upon the furnishing by the successful tenderer of a performance security, the Employer will promptly notify the unsuccessful tenderers that their tenders have been unsuccessful.

13.7. The contractor shall, in accordance with the requirement of the Employer, afford all reasonable opportunities for carrying out their work to any other contractors employed by the Employer and their workmen and to the workmen of the Employer and of any other duly constituted authorities who may be employed in the execution on or near the site of any work not included in the contract or of any contract which the employer may enter into in connection with or ancillary to the works.

14. Evidence of Work Experience:

14.1. In order to cross verify the work experience claimed by the bidders, TDS Certificate from their previous employers is to be submitted.

14.2. In case of difficulty on submission of TDS by bidders, Form 26 AS of IT Department shall be submitted as evidence for establishing work experience.

15. Fraudulent documentation by bidders:

Submission of fraudulent documents by the bidder shall be treated as major violation of the tender procedure and in such cases, pursuant to clause no 33 of GCC, the Port shall resort to forfeiture of EMD/SD/BG of the bidder, apart from blacklisting the firm for the next 3 years. The list of blacklisted firms shall be published on Port Trust website.

**Chief Engineer
Mumbai Port Authority**

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA,
GWSD.”**

General Conditions of Contract (GCC)

I N D E X

Clause No.	Description
1.	Definitions and Interpretations
1.1.	Definitions
1.2.	Singular and Plural
1.3.	Applicability of Clauses/ Conditions
2.	Duties & Powers of Engineer's Representative
3.	Subletting and Partnership
4.	Extent of Contract
5.	Contract Documents
5.1.	Documents mutually explanatory
5.2.	Further drawings and Instructions
5.3.	Drawings for temporary works
6.	General Obligations
6.1.	Contract Agreement
6.2.	Security Deposits
6.3.	Delay/ Failure to lodge Security Deposit
6.4.	Inspection of site
6.5.	Sufficiency of Tender
6.6.	Work to the satisfaction of the Engineer
6.7.	Programme to be furnished
6.8.	Contractor's employees
6.9.	Setting out of work
6.10.	Care of works
6.11.	Insurances
6.12.	Damage To Employer's Property
6.13.	Giving of Notices & Payment of Fees
6.14.	Compliance with Statutes – Regulations etc.
6.15.	Patents, Rights and Royalties

Clause No.	Description
6.16.	Interference with Traffic and adjoining properties
6.17.	Bribes, Commission and Corrupt Gifts
6.18.	Official secrets and Drawings and Photographs of works
6.19	Precaution
6.20.	Custom and Security requirements
6.21.	Water supply for Construction purposes
6.22.	Electric supply for Construction purposes
6.23.	Restrictions for safety, Security and Co-ordination
6.24.	Life Saving Appliances & First Aid
7.	Labour
7.1.	Compliance with statutes and payment of wages
7.2.	Supply of drinking water to labours
7.3.	Festivals and religious customs
7.4.	Epidemics
7.5.	Disorderly Conduct etc.
7.6.	Foot wear, gloves etc.
7.7.	Accidents
7.8.	Fair Wages Clause
8.	Materials and Workmanship
a	Quality of Materials, Workmanship and Tests
b	Access to place of manufacture/ works etc.
c	Examination of work before covering up
d	Removal of Improper work and materials
e	Right to Use Before Test
9.	Commencement time and Delays
9.1.	Release of Site
9.2.	Commencement and Execution of works
9.3.	Remedy for Contractor's failure to make proper progress
9.4.	Suspension of work on order of Engineer
9.5.	Time for Completion
9.6.	Extension of Time
9.7.	Working Hours
9.8.	Liquidated Damages for delay in completion
9.9.	Certificate of Substantial completion of works
10.	Maintenance and defects
10.1.	Defect during execution
10.2.	Defect liability period
10.3.	Repair and remedies during defect liability period
10.4.	Cost of repairs and remedies
10.5.	Remedy on Contractor's failure to carry out work as required

Clause No.	Description
11.	Addition, Alteration and Omission
11.1.	Variations
11.2.	Valuation of Variations
11.3.	Payment for extra work
12.	Plant, temporary works and materials
12.1.	Exclusive use for the works
12.2.	Removal of plant etc.
12.3.	Employer not liable for damage to the plant etc.
12.4.	Employer's plant and equipment
13.	Measurement
13.1.	Quantities
13.2.	Works to be measured
13.3.	Method of measurement
14.	Price variation and price adjustment
15.	Certificates and Payments
15.a.	Mode of payment
15.b.	Refund of Security Deposit
15.c.	No Interest payable
16.	Remedies and Powers
16.1.	Employer's lien
16.2.	Liquidation and Re-entry
16.3.	Damages and forfeiture of Security Deposit
16.4.	Extras Expenses
17.	Law and language
18.	Engineer's Decision - FINAL
19.	Notice to Statutory bodies
20.	Safety of existing underground services
21.	Contractor's site office and stores
22.	Removal of surplus excavated materials& debris
23.	Records

Clause No.	Description
24.	Facilities to be provided by the contractor
24.1	Vehicle
24.2	Site Office
25.	Adjustment for changes in Legislation
26.	Force Majeure
27.	Use of MBPA Weigh Bridges
28.	As made drawings & progress photograph
29.	Mobilisation Advance
30.	Claims, dispute & Arbitration
31	Space for Material, Storage, labour camp & Residential Accommodation.
32	Termination
33	Corrupt or Fraudulent Practices.
34	Advertisement
35	Management Meetings.
36	Third party Inspection
37	Access to Jawahar Dweep and Pir Pau

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN,
COLABA, GWSD.”**

General Conditions of Contract (GCC)

1. Definitions and Interpretations:

1.1. Definitions:

In the Contract (as hereinafter defined) the following words and expressions shall have the meaning hereby assigned to them except where the context otherwise requires.

- (a) **'Employer'** means “The Board of Mumbai Port Authority” i.e. “MBPA” constituted by the Major Port Trusts Act 1963.
- (b) **'Contractor'** means the person or persons, firm or company whose tender has been accepted by the Employer and includes the Contractor's personal representatives, successors and permitted assigns.
- (c) **'Engineer'** means the Chief Engineer of the Port of Mumbai or other Engineer authorised from time to time by the Employer/ Chief Engineer/ to act as Engineer for the purpose of the Contract.
- (d) **'Engineer's Representative'** means any Engineer Namely Dy. Chief Engineer/ Superintending Engineer/ Executive Engineer/ Assistant Executive Engineer/ Jr. Engineer authorised from time to time by the Engineer to be in direct supervision of the Works.
- (e) **'Works/ Permanent Works'** means the works to be executed in accordance with the Contract.
- (f) **'Contract'** means the duly executed Contract Agreement, the Letter of Acceptance, Tender document consisting of technical cover and price cover, the Drawings, further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance, the correspondence exchanged between MBPA and the tenderer up-to issue of the letter of acceptance.
- (g) **'Tender'** means the Contractor’s priced offer to the Employer for the execution and completion of the works and the remedying of any defects therein in accordance with the provisions of the contract, as accepted by the Letter of Acceptance.
- (h) **'Contract Price'** means the sum named in the Tender subject to such additions thereto or deductions there from as may be made under the provisions hereinafter contained.
- (i) **'Construction Plant'** means all appliances or things of whatsoever nature, required in or about the execution or completion of the Works or Temporary

Works (as hereinafter defined) but does not include materials or things intended to form or forming part of the permanent work.

- (j) **'Temporary Works'** means all temporary works of every kind required in or ancillary to or about the efficient execution and completion of the Works.
- (k) **'Drawings'** means the drawings indicated in this document and any modifications of such drawings approved in writing by the 'Engineer' and such other drawing as may from time to time be furnished or approved in writing by the 'Engineer'.
- (l) **'Site'** means the land or other places, on which the Works are to be executed or carried out and any other lands or places provided by the Employer for the purpose of the Contract.
- (m) **'Approved'** means approved in writing, including subsequent written confirmation of previous verbal approval and 'Approval', means approval in writing including as aforesaid.
- (n) **'Letter of Acceptance/ Work Order'** means a formal letter with accompaniments issued by Engineer or Engineer's representative addressed to the tenderer, conveying the acceptance of his tender.

1.2. Singular and Plural: Words importing the singular only also include the plural and vice versa where the context requires.

1.3. Applicability of Clauses / Conditions: All the clauses/ conditions of this 'Contract' are applicable for the subject tender work unless otherwise specified in Special Conditions of Contract.

2. **Duties and Powers of Engineer's representative:**

The duties of the Engineer's Representative are –

- to monitor and supervise the Works & workmanship employed.
- to test and examine materials to be used in the works.
- to direct removal of improper work and materials in connection with the Works.
- to take measurements of works and material.
- To ensure compliance of all the conditions of contract & specifications by the contractor.

3. **Subletting and Partnership:**

The Contractor shall not sublet the Works or any portion thereof without the written permission of the Engineer nor assign his right and interest in these presents, nor assume a fresh partner or partners nor dissolve the partnership at present subsisting between them in reference to this Contract, without the written permission of the Engineer and such consent if given shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts defaults and neglects of any sub-Contractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor/his agents, servants or workmen provided always that the provision of labour on a piece work basis shall not be deemed to be a subletting under this Clause.

4. **Extent of Contract:**

The Contract comprises the construction, completion and maintenance of the Works and the provision of all labour, materials, constructional plant, temporary works and everything whether of a temporary or permanent nature required in and for such construction, completion and maintenance of works up to Defect Liability Period.

5. **Contract Documents:**

5.1. Documents mutually explanatory:

The several documents forming the Contract are to be taken as mutually explanatory of one another.

In the case of discrepancy/ ambiguities, if any, found in these documents, the Engineer will decide which document would prevail and his decision shall be final and binding on the contractor. The contractor shall execute the works according to such decision without any variation in the price quoted by the contractor.

5.2. Further Drawings and Instructions:

The Engineer shall have full power and authority 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 the proper and adequate execution and maintenance of the works and the Contractor shall carry out the works accordingly and be bound by the same.

5.3. Drawings for Temporary Works:

The Contractor shall submit to the Engineer for his approval and / or record full details and drawings of any temporary works/ working platforms etc. which he proposes to construct/ erect necessary for execution of works. These details shall be submitted well in advance before erection of any such Temporary works at site. The submission to and approval by the Engineer or Engineer's representative of such particulars shall not relive the contractor of any of the duties or responsibilities under the contract in connection with the Works or Temporary works.

5.4 **Communications**

Communication between parties is effective only when it is in writing. Electronic communication via mail, written communication with proper receipt shall be treated as valid communication between the parties.

6. **General Obligations:**

6.1. Contract Agreement:

The successful tenderer will be required to enter into a formal Agreement with the Employer incorporating the documents detailed in clause No.1.1 (f) hereto before, with such modifications as may be necessary and the correspondence exchanged up-to and including the stage of award of the contract and the letter of acceptance. The Contract Agreement will be prepared by the Employer as per the format enclosed as Proforma-I. All costs, charges and expenses including stamp duty incurred in this connection shall be borne by the contractor. Until such Contract Agreement is executed, the acceptance of the tender in terms of the Contract as defined in Clause No.1.1 (f) shall be binding upon the MBPA & the Contractor. Contract agreement shall be executed within 60 days from the date of award or any extension granted whichever is later.

The works contracts which do not involve transfer of property in goods are to be stamped with stamp duty of only Rs.100 and Rs.500/- and are not to be registered. As per the provisions of the Maharashtra Stamp Act, 1958, the Stamp Duty and registration charges of each tender including tender for works contract will be paid by the contractor/works contractor/successful bidder

The Contractor's bills will not be passed for payment until the contract agreement is executed.

6.2. Security Deposits.

The security deposit for due performance of the contract shall comprise of the following.

(a) **Performance Security Deposit (PSD)** equivalent to 5% of the contract value payable in the form of Demand Draft/Pay Order OR Bank Guarantee issued from any of the commercial Bank in India. It will be refunded to the contractor without interest, after he duly performs and completes all obligations under the contract but not later than 365 days of completion of the Defect Liability Period (DLP).

Plus

(b) **Additional Security Deposit for Abnormally Low Bids (ASD):** Payable only if the contractor quotes more than 15 % below the cost put to tender payable in the form of Demand Draft / Pay Order OR Bank Guarantee issued from any of the commercial bank in India. Addl. Security Deposit will be refunded to the contractor after successful completion of work.

No costs/ charges will be recovered from the Contractor for approval of the Bank Guarantee by the Employer's Chief Law Officer & Advocate but all other costs of and in respect of furnishing the Guarantee shall be borne by the

Contractor. The format of Bank Guarantee towards Security Deposit is enclosed as Proforma-II.

Plus

- (c) **Retention Money (RM)** equivalent to Five percent (5%) of Contract Price and rounded off to the next higher thousand in Rupees deducted at the rate of five percent (5%) and rounded off to the next higher thousand Rupees of the gross value of work certified in each bill, until an amount of Five percent (5%) of Contract Price and rounded off to the next higher thousand in Rupees is reached.

Retention Money will be released upon expiration of 365 days after the Defect Liability Period of the works or final Payment, whichever is earlier, on certification by the engineer. In the event of different defect liability periods being applicable to different sections or parts, the expiration of defect liability period shall be the latest of such periods.

Plus (If waterproofing work is involved)

10% of the amount of waterproofing item will be recovered from the bills and will be refunded to the contractor after successful completion of the defect liability period of 3 years for waterproofing work carried out in this contract.

Additional Security Deposit:- In case contractors offer is more than fifteen percent (15%) below the cost of work put to tender, such contractor shall have to pay Extra Additional Security Deposit (EASD) worked out as per the formula given below, in the form of Demand Draft/ Banker's Cheque/ Bank Guarantees. EASD shall be valid upto scheduled completion and subsequently be extended upto actual completion and shall be in favour of the 'Board of Trustees of the Port of Mumbai'. The Additional Security Deposit will be released on satisfactory completion of work.

Formula:

$$\text{Extra Additional Security Deposit (EASD)} = \frac{A}{100} \times \text{cost of work put to tender}$$

Where 'A' = Percent rebate quoted on the cost of work put to tender for a particular part by the contractor minus fifteen percent (15%).

For Example: If the contractor has quoted twenty five percent (25%) below the cost put to tender, for any particular part of this tender, then the Extra Additional Security Deposit shall be worked out as under.

$$\text{EASD} = \frac{25-15}{100} \times \text{cost of work put to tender}$$

The Security Deposit under sub clause (a) and (b) above and also (d) if applicable, shall be lodged by the Contractor within **21 days** from the date of award of contract.

The security deposit and retention money shall not bear any interest and these shall be refunded to the Contractor in the manner detailed in the clause No 15.c of Conditions of Contract.

- (d) The Contractor shall ensure that the BG towards Security Deposits (Performance Security) is valid till completion/ extended completion of contract.

6.3. Delay/ Failure to lodge Security Deposit:

- A. Unless the Performance Security Deposit / Additional Security Deposit is furnished by the Contractor within 21 days from the date of award of contract or such further period as may be allowed by the Engineer in writing, the Earnest Money lodged with the tender will be liable to forfeiture and the contract is liable to be terminated and the tenderer will be responsible to the Employer for the damage thereby incurred by the Employer.
- B. Delay in submission of PSD/ASD will carry 18 % interest per annum for delayed period. However, Chief engineer may condone the delay and interest if reasons for delayed submission of PSD/ASD are found genuine and factual.
- C. Urgent works can be started immediately after placement of work order with specific approval of Chief Engineer before submission of PSD/ASD.

6.4. Inspection of site:

The Contractor shall be deemed to have inspected and examined the site and its surroundings and have satisfied himself before submitting his tender regarding the nature and condition of structure, nature and scope of the work, materials necessary for the completion of the Works, the physical and climatic conditions there, the availability and conditions affecting labour, the facilities for obtaining materials necessary for the completion of the Works, the condition of the existing roads/ access, under-ground services etc. and shall himself obtain all necessary information as to risks, contingencies and other circumstances which may influence or affect his tender.

6.5. Sufficiency of tender:

The Contractor shall be deemed to have satisfied himself before tendering as to the practicability and the suitability of the design and his method of working and to the correctness and sufficiency of his tender for the Works; and the rates and prices stated in the Schedule of Quantities and Rates shall be held to cover all his obligations under the Contract and all matters and things necessary for the proper execution, completion and maintenance of the work.

6.6. Work to the satisfaction of Engineer:

The Contractor shall execute, complete and maintain the works in strict accordance with the Contract to the satisfaction of the Engineer/ Engineer's Representative and shall comply with and adhere strictly to his instructions and directions on any matter whether, mentioned in the Contract or not, concerning the Works. The Contractor shall take instructions and directions only from the Engineer or from the Engineer's Representative.

6.7. Programme to be furnished:

The execution of the works shall be so planned as to cause as little impediment as practicable to the working of the Port and other persons using the site and the organisations in the vicinity in general.

After the award of the contract, the Contractor shall prepare network-based programme of work and will further breakdown his 'work/s' into weekly/ fortnightly/ monthly targets, as required by the Engineer's representative.

The progress of the work shall be reviewed periodically with reference to the network-based programme of work. The network shall be up-dated by the Contractor periodically so as to ensure completion within completion period and the Contractor must mobilise at no extra cost to the Employer, additional resources if required for completion of the whole work in the completion period.

6.8. Contractor's Employees:

- 6.8.1. The Contractor shall provide and employ on the Site in connection with the execution and maintenance of the Works,
- a) Only such technical assistants as are skilled and experienced in their respective trades, as are competent to give proper supervision to the work they are supposed to supervise;
 - b) Such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution and maintenance of the Works.
 - c) The Plumber and other personal to be deployed under this contract should be skilled and should be able to read English/Marathi/ and Hindi words, so as to enable them to read the instructions issued by Engineer in charge.
 - d) 2 Supervisors having 5 years' experience in civil works shall be posted full time.
- 6.8.2. The Engineer shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person or Sub-Contractor employed by the Contractor in or about the execution or maintenance of the Work who in the opinion of the Engineer misconducts himself or is incompetent or negligent in the proper performance of his duties or whose employment is otherwise considered by the Engineer to be undesirable and such person shall not be again re-employed.

6.8.3. Employment of retired Class-I Officers of MBPA:

The Employer shall be at liberty to terminate the Contract if the contractor himself or any of his partners/ employees or any of his directors who having held Class-I post in the Mumbai Port Authority prior to his retirement has failed to obtain the Mumbai Port Authority Chairman's specific permission to undertake an occupation or any outside employment before the expiry of two years from the date of his retirement, in accordance with the provisions of the Mumbai Port Authority Class-I employees (Acceptance of employment after retirement) Regulations 1975.

6.9. Setting out of work:

The Contractor shall be responsible for the true and proper setting out of the Works in relation to original points, lines and levels of references given by the Engineer/ Engineer's Representative in writing and for the correctness of the positions, levels, dimensions and alignment of all parts of the work and for the provision of all necessary instruments, appliances and labour in connection therewith. If at any time during the progress of works any error shall appear or arise in the positions, levels dimensions or alignment of any part of the works, the Contractor on being required so to do by the Engineer or Engineer's Representative shall at his own expense rectify such error to the satisfaction of the Engineer or Engineer's Representative. The checking of any setting-out of any line or level or dimension by the Engineer or the Engineer's Representative shall not in any way relieve the Contractor of his responsibility for the correctness thereof. The Contractor shall carefully protect and preserve all benchmarks, sight-rails, pegs and other things used in setting out the works.

6.10. Care of works:

6.10.1. From the commencement to the completion of the Work the Contractor shall take full responsibility to care the work and temporary work. In case any damage, loss shall happen to the Works or to any part thereof or to any temporary Works from any cause whatsoever, shall at his own cost repair and make good the same so that on completion, the Works shall be in good order and condition and in conformity in every respect with the requirements of the contract and the Engineer's instructions.

6.10.2. There are various utility services like oil pipe lines, electrical services, water mains, drainage lines, telephone cables etc. on site under the scope of subject work. These services shall be safeguarded and protected by the contractor at his own cost, during the execution of repairs works at locations and its surroundings where work is being executed.

6.10.3. The Contractor at his own cost shall make such provisions for lighting the works, storage area and plant and shall provide all such marks and lights as may be required by the Engineer or any other authority having jurisdiction in connection with the site together with all labour, stores and services required for their efficient working and use at any time of day and night. He shall require

protecting and securing all places dangerous whether to the Contractor's workmen or to other persons until the work shall be handed over to the Employer unless the Engineer shall decide that such services are no longer required.

6.11. Insurance: (Refer Clause 6 of SCC)

Without limiting his obligations and responsibilities under Clause No.6.10 hereof the Contractor shall insure in the joint names of the Employer and the Contractor against all loss or damage from whatever cause arising for which damage he is responsible under the terms of Contract and in such manner that the Employer and the Contractor are covered during the period of construction of the Works and are also covered during the Defect Liability period for loss or damage arising from a cause occurring prior to the expiry of Defect Liability period and for any loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Clause No.10 hereof.

- a) the Works and the temporary Works to the full value of such works executed from time to time and
- b) The materials, constructional plant and other things brought on to the site by the Contractor to the full value of such materials, constructional plant and other things.
- c) Third party insurance: Against any damage, loss or injury which may occur to any property or persons inter-alia including any property of the Employer and any employee of the Employer by or arising out of the execution of the Works or temporary Works or in carrying out of the Contract. Third party Insurance policy shall be for an amount of Rs.25 lakh in any one incident and to be recouped after every incident till completion of the entire work.

Such insurance shall be effected with the General Insurance Corporation of India or other insurance company approved by the Employer and in terms approved by the Employer and the Contractor shall whenever require, produce to the Engineer or the Engineer's Representative the policy or policies of insurance and the receipt for payment of the current premium. All risk policy shall not cover Earthquake risk and STFI. **All Insurance policy premiums shall be borne by the contractor.**

6.11.1. Insurance against accident to workmen:

The Contractor shall indemnify and keep indemnified the Employer against all damages or compensation payable at Law in respect or in consequence of any accident or injury to any workmen or other person in the employment of the Contractor or any Sub-Contractor and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto and the Employer shall be at liberty to deduct or adjust from the Contractor's bills any amount that Employer may be called upon to pay toward claims, demands, proceedings, costs, charges and expenses whatsoever in respect of or in relation to any accident or injury referred to above without any reference to the Contractor.

The Contractor shall insure against such liability with the General Insurance Corporation of India or other insurance company approved by the Employer and shall continue such insurance during the whole of the time that any persons are employed by him in the Works and shall when required produce to the Engineer or the Engineer's Representative such policy of insurance and the receipt for payment of the current premium provided always that in respect of any persons employed by any Sub- Contractor the Contractor's obligations to insure as aforesaid under this sub-clause shall be satisfied if the sub-Contractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy but the Contractor shall require such sub-Contractor to produce to the Engineer or the Engineer's Representative when required such policy of insurance and the receipt for payment of the current premium.

In case of department's requirement for early completion of work requires deployment of additional labour and the contractor is prevailed upon for additional labour deployment, the premium of additional policy/ies shall also be paid by the contractor

6.11.2. Insurance against war risk:

If during the course of Contract there occurs war or threat of war and the Government impose War Risk Insurance, in that event the Contractor shall take out War Risk Insurance.

6.11.3. Payment of insurance premia:

The premia and other charges for the various insurance policies required to be furnished by the Contractor under this tender shall be paid by the Contractor. **No reimbursement will be made for any policy premium by MBPA.**

6.11.4. Remedy on Contractor's failure to insure:

If the Contractor shall fail to effect and keep in force the insurance referred to above, the contract will be liable to be terminated and the Contractor will be responsible to the Employer for the damage thereby incurred by him.

6.12. Damage to persons and property:

6.12.1. The Contractor shall indemnify and keep indemnified the Employer against all losses and claim for injuries or damage to any persons or any property whatsoever which may arise out of or in consequence of the construction and maintenance of the Works and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto.

6.12.2. In case of any damage to Employer's property, a preliminary formal enquiry will be held by the person nominated by the Employer. The enquiry will be held in

the presence of the concerned Representative of the Engineer and of the Contractor's authorised representative. If, as a result of the enquiry, a prima-facie case is established against the Contractor, recovery towards making good the damage will be made from the Contractor.

6.12.3. In case Insurance coverage is available for making good the damages, the contractor may claim from the Insurance Company for the same. However, the Employer will affect the recovery as stated above at the first instant and the contractor may then claim to the Insurance Company.

6.13. Giving of notices and payment of fees:

The Contractor shall at his own expense give all notices and provide in his rates for the payment of all fees, income tax, import duties, and other charges, duties and taxes excluding GST required to be given or paid by an act of the Central or State Government or any regulation or bye-law of any local or any other statutory authority in relation to the materials, labour and plant and all other things obtained by him or used by him for the execution of the works or temporary works and by the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the works or temporary works.

6.14. Compliance with statutes, regulations etc.:

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

6.15. Patents, Rights and Royalties:

The Contractor shall save harmless fossils and indemnify the Employer from and against all claims and proceedings for or an account of infringement of any patent rights, design trade mark or name or other protected rights in respect of any construction plant, machine, work or material used for or in connection with the works or temporary works or any of them and from against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto. The contractor shall pay all tonnage and other royalties, rent and other payments or compensation (if any) for getting stone, sand, gravel, clay or other materials required for the works or temporary works. The contractor shall also pay all royalties, rents and other payments for the disposal of material from demolition and other surplus material.

6.16. Interference with traffic and adjoining properties:

All operations necessary for the execution of the Works and for the construction of temporary Works shall so far as compliance with the requirements of the Contract shall be carried in such manner so as not to interfere unnecessarily or improperly with the public convenience or the access to use and occupation of public or private roads and footpaths or to properties whether in the possession of the Employer or of any other person

6.17. Bribes, Commission and Corrupt Gifts:

Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the Contractor or his partner, agent or employee or anyone in his or their behalf to any officer, servant, representative or agent of the Engineer or to any person on his behalf in relation to the obtaining or to the execution of this or any other Contract with the Employer shall in addition to any original liability which he may incur, subject the Contractor to the cancellation of this and all other Contracts with the Employer and also to the payment of any loss or damage resulting from any such cancellation and the Employer shall be entitled to deduct the amount so payable from any money otherwise due to the Contractor during this or any other Contract. Any question or dispute as to the commission of any offence under the present Clause shall be settled by the Engineer in such manner and on such evidence or information as he shall think fit and consider sufficient and his decision shall be final and binding on the Contractor.

6.18. Official secrets and drawings and photographs of works:

6.18.1. The Contract involves an obligation of secrecy and the commission by the Contractor, the agent's servants, or sub-Contractor or their agents or servants of any offence under the Indian Official Secret Act 1923 or any statutory modifications or re-enactments thereof will apart from being a criminal offence constitute a breach of the Contract.

6.18.2. The Contractor shall not disclose the detail of drawings furnished to him and of Works on which he is engaged without the approval of the Engineer. No photographs of the Works or any part thereon or plant employed thereon shall be taken or permitted by the Contractor to be taken by any of his sub-contractors' employees without the approval of the Engineer and no such photographs shall be published, or otherwise circulated without the approval of the Engineer.

6.18.3. Without taking any prior written permission from the appropriate authority of MBPA, any kind of photography whether still or video / movie inside the Dock as well as anywhere in MBPA estate is prohibited

6.19. Precautions:

6.19.1. Anti-malarial precautions:

Every precaution shall be taken by the Contractor to prevent the breeding of

mosquitoes on the Site and all receptacles used for the storage of water must be suitably protected for this purpose. Any notice from MCGM PCO related to noncompliance of Mosquito prevention guidelines at site shall be contractor's responsibility and Contractor will be held responsible to comply and pay the fine to the satisfaction of PCO.

6.19.2. Precaution against air and water pollution:

Every precaution shall be taken by the Contractor to reduce air and water pollution resulting from his operations. He shall fully comply with the relevant provisions of the Maharashtra Prevention of Water Pollution Act, 1969 or subsequent legislation thereof.

6.20. Custom and Security requirements:

The Contractor shall comply with all the regulations imposed by the Customs and Port Security Authorities in respect of the passage of Plant, vehicles, material and personnel through Custom's barriers.

6.21. Water supply for construction purposes:

6.21.1. The contractor may seek fresh water for construction purposes from the Employer's water main existing in the vicinity of site on chargeable basis at the prevailing rates along with extra water charges if any levied by the MCGM. MCGM tested water meter and water supply network shall be arranged by the contractor as necessary. In case the water supply from Employers main is insufficient to meet the requirements at the site, the contractor shall make the arrangements at his own cost to bring fresh water from outside sources. Inadequate supply of water, if any, from Employer's water main will not be accepted as an excuse for delay or deficiencies in the work.

6.21.2. For obtaining water supply from Employer's water main, the Employer will provide a connection at suitable location from where the contractor will draw water for construction purposes. The contractor at his own cost lay and maintain the water pipe lines and storage tanks etc as may be required by him for further use. The charges for the water supplied by the Employer shall be recovered through the contractor's bills for the works. The Contractor shall at his own cost construct and maintain at the Site, to the approval of the Engineer, a temporary water storage tank of capacity sufficient to meet at least two day's peak requirements. The Contractor will not be permitted to commence, on any day, work requiring use of water, unless the temporary water storage tank provided as per (a) above is at least 3/4th full.

6.21.3. Water for construction and drinking purpose will be provided free of cost at Jawahar Dweep & PirPau depending on availability. (Not applicable to this tender)

6.22. Electric supply for construction purposes:

- 6.22.1. All costs in connection with the procurement of all electrical energy required for the construction and maintenance of the works shall be borne by the Contractor.
- 6.22.2. The Contractor may seek electrical energy for construction purposes from the Employer's electrical distribution system available at site on chargeable basis at the prevailing rates. In the event of non-supply or inadequate load from Employer's Electrical System, the contractor has to make his own arrangement to produce the required electricity at their cost.
- 6.22.3. In case of electric connection from the Employer's electrical network, the Electrical Department of the Employer will provide, at the cost of the Employer, a meter at the location of supply. The Contractor shall at his own cost, lay and maintain the cable and install and maintain a distribution board with good quality switch gear through a licensed electrical Contractor and the Contractor shall submit Insulation Test Certificate issued by the licensed electrical Contractor. The contractor shall approach Mechanical Engineering & Electrical Department for electrical connection and make requisite security Deposit and complete the requisite formalities of MEED.
- 6.22.4. The Employer reserves the right to disconnect or switch off the electric connection given from its electrical network if
 - (a) it becomes necessary to do so for maintaining electric supply to the Employer's installations
 - (b) the Contractor's installation is defective
 - (c) the Contractor fails to comply with any of the conditions under which the connection has been given.

In the event of disconnection/ switching off of the electric connection as above the Contractor will have to make his own arrangements at his cost for diesel generating sets etc. and the Contractor will have no claim to extra cost for completing the Works. In case of (b) above the electric supply will be restored only after the Contractor rectifies the fault and submits a fresh Insulation Test Certificate through a licensed electrical Contractor.

- 6.22.5. The electrical energy consumed will be charged on the basis of meter reading at the prevailing rate at the time of use. The Contractor shall fulfil all other formalities necessary for electrical connection, from the employer's electrical network.

6.23. Restrictions for safety, security and co-ordination:

- 6.23.1. General safety rules:

Contractor shall adhere to safe construction practice and guard against hazardous and unsafe working conditions and shall comply with safety rules

regulations of the Employer and other concerned authorities. The cost of the same is deemed to be included in the rates quoted by the Contractor.

i. First-aid and industrial injuries:

1. Contractor shall maintain first aid facilities for his employees and those of his sub-contractors and also for Employer's representative working / supervising the work.
2. Contractor shall make necessary arrangements of and ambulance (land transport leg) for the treatment of industrial injuries requiring hospitalisation, without loss of time. Names of those providing these services and their telephone numbers shall be prominently displayed at the site.
3. All critical industrial injuries shall be reported promptly to Employer, and a copy of Contractor's report covering each personal injury requiring the attention of a physician shall be furnished to the Employer.

ii. No smoking:

Smoking within the dock areas, extended dock area and on the Jetty is strictly prohibited. Violators of the no smoking rules shall be removed immediately.

iii. Contractor's Barricades and lights:

1. Contractor shall erect and maintain barricades and lighting required in connection with his operation to guard or protect,
 - i) Hoisting areas.
 - ii) Areas adjudged hazardous.
 - iii) Employer's existing property subject to damage by Contractor's operations.
 - iv) Road, unloading spots.
 - v) Any other area directed by the Engineer.
2. Contractor's employees and those of his sub-contractors shall become acquainted with the Employer's barricading practice and comply with the provisions thereof.
3. Red flasher lanterns shall mark barricades and hazardous areas adjacent to but not located on normal routes of travel at nights.

iv. Scaffolding:

1. Suitable strong suspended or otherwise scaffolding should be provided for workmen for all works that cannot safely be carried out from the available access/approaches or from existing permanent structures.
2. Scaffolding or staging and swing suspended from an overhead support or erected with stationary support shall have a guard rail properly attached bolted braced and otherwise guarded at least 1 m. high above the floor or platform of such scaffolding or staging and extending along the entire length of the outside and ends thereof with only such openings as may be necessary for the delivery of materials. Such

scaffolding or staging shall be so fastened as to prevent it from swaying from the structure.

3. Working platform, gangways and stairways should be so constructed that they should not sag unduly or unequally and should be closely boarded, should have adequate width and should be suitably fastened.
4. Every opening in a working platform shall be provided with suitable means to prevent the fall of persons or materials by providing suitable fencing or railing whose minimum height shall be 1 metre.
5. Safe means of access shall be provided to all working platforms and other working places. Adequate precautions shall be taken to prevent danger from electrical equipment. No material on any of the sites of work shall be so stacked or placed to cause danger or inconvenience to any person or public. The Contractor shall also provide all necessary fencing and lights to protect the workers and staff from accidents, and shall be bound to bear the expenses of defence of every suit, action or other proceeding of law and that may be brought by any person for injury sustained owing to neglect of necessary precautions and pay any damage and costs which may be awarded in any such suit or action or proceedings to any such person or which may with the consent of the Contractor be paid to compromise any claim by any such person.

v. Excavation and Trenching:

All trenches 1.2 Metres or more in depth, shall at all times be supplied with at least one ladder for each 50 Metres length or fraction thereof. Ladder shall be extended from bottom of the trench to at least 1 Metre above the surface of the ground. The sides of the trenches, which are 1.5 Metres in depth shall be stepped back to give suitable slope or securely held by timber bracing, so as to avoid the danger of sides to collapse. The excavated materials shall not be placed within 1.5 Metres of the edge of the trench or half of the trench width whichever is more. Cutting shall be done from top to bottom. Under no circumstances undermining or undercutting shall be done.

vi. Demolition:

Before any demolition work is commenced and also during the progress of the work,

- i) All areas adjacent to the work site prone to accidents shall either be closed or suitably protected.
- ii) Sufficient care shall be taken for electric cable or apparatus which are potential source of danger
- iii) All practical steps shall be taken to prevent danger to persons employed from risk of fire, explosion etc.

vii. Safety equipment:

1. All necessary personnel safety equipment like, safety belt, industrial helmet, gum boot, gloves another personnel protection equipment as

considered adequate by the Engineer should be kept available for the use of the persons employed on the site and maintained in condition suitable for immediate use, and the Contractor shall take adequate steps to ensure proper use of equipment by those concerned.

2. Workers employed on mixing chemicals, cement concrete, mortars etc. shall be provided with protective footwear and protective gloves.
3. Those engaged in white washing and mixing or stacking of cement or any materials, which are injuries to the eyes, shall be provided with protective goggles.
4. Those engaged in welding and cutting works shall be provided with face & eye shields and hand gloves.
5. Those engaged in works near any place wherever there is a risk of drowning, necessary equipment shall be provided and kept ready for use and all necessary steps taken for prompt rescue of any person in danger. Besides above these workers shall be provided with lifesaving safety jackets to ensure flotation.

viii. General:

1. All ladders / temporary supporting platforms and other safety devices mentioned or described herein shall be maintained in safe condition and no scaffold, ladder or equipment shall be altered or removed while it is in use. Adequate washing facilities should be provided near places of work.
2. These safety provisions should be brought to the notice of all concerned by displaying on a notice board at a prominent place at the work-spot. The person responsible for compliance of the safety code shall be named therein by the Contractor.
3. To ensure effective enforcement of the rules and regulations relating to safety precautions, the arrangements made by the Contractor shall be open to inspection by the Employer's Welfare Officer, Engineer or Safety Officer or their representatives.
4. Notwithstanding the above clauses there is nothing in these to exempt the Contractor for the operations of any other Act or rules in force. The work throughout including any temporary works shall be carried out in such a manner as not to interfere in any way whatsoever with the traffic on any roads or foot-paths at the site or in the vicinity thereto or any existing works whether the property of the Employer or of a third party.
5. In addition to the above, the Contractor shall abide by the safety code provision as per CPWD Safety Code and IS:3696 (Part-I and Part-II), IS:3764 and IS:4081.

6.23.2. Carrying out welding, gas cutting or other hot work:

Whenever welding, gas cutting or other hot work is to be carried out, the Contractor shall give at least one week's prior notice to the Employer's Port Safety & Fire Officer (and copy to Engineer's Representative) who in turn will issue the permission along with the guidelines and precautions required to be taken while carrying out the hot work. The Contractor shall at his own cost,

immediately comply with all the requirements intimated to him, such as provision of fire buckets, water, sand, portable fire extinguishers etc. The Contractor shall not commence hot work until he receives clearance in writing from Employer's Port Safety & Fire Officer to do so. In case the hot work is required to be suspended for safety reasons, the Contractor shall immediately suspend the hot work upon receiving instructions from the Engineer's Representative and the hot work shall not be resumed until further instructions are issued by the Engineer's Representative to do so.

6.23.3. Facilities for works of other agencies:

The Contractor shall take care to see that his works do not, in anyway, hamper the concurrent progress of works of other agencies in and around the premises. The Contractor shall afford all facilities to them like lockable & open place for storing their materials, place for their site office, etc., as may be directed by the Engineer's Representative, so that they can concurrently carry on their works. These agencies will make their own arrangements for the security of their stores, works, offices, etc.

6.24. Lifesaving appliances and First-Aid equipment: The Contractor shall provide and maintain upon the works sufficient, proper and efficient lifesaving appliances and first aid equipment to the approval of the Engineer and Port Safety Officer.

6.25. **Safety Measures**

- a) The contractor shall provide all safety equipment such as jacket, safety belt, safety shoes, helmet, gloves etc. to his workers during the execution of work
- b) If the contractor does not follow the safety precautions as prescribed in the tender conditions/ instructed/ required as per construction practices, the contractor will be imposed a penalty of Rs.1,00,000/- per occasion
- c) If the contractor fails to follow the safety instructions continually for 3 occasions during the execution of any particular work, the contractor shall be debarred for 6 months from participating in MBPA tenders.
- d) During the execution of work if any fatal accidents occurred to the labourers employed by the contractor due to the negligence and also not adhering to the instructions on safety, the contractor shall be blacklisted for minimum 3 years and/ or as may be decided by the Chief Engineer and will not be allowed to participate in any of the tenders of MBPA.
- e) If the labourers are required to work at a height of 20 feet or above, the contractor shall provide safety net as per the site requirement and a separate supervisor shall be posted to monitor the same.

7. **Labour:**

7.1. Compliance with statutes and payment of wages:

7.1.1. The Contractor shall make his own arrangements for the engagement of all labour preferably local.

7.1.2. The Contractor shall comply fully with all Central and State laws dealing with the

employment of persons, apprentices etc. including the Employment of Children Act, 1938, Payment of Wages Act, 1936, the Workmen's Compensation Act, 1923, the Factories Act, 1948, the Minimum Wages Act, 1948, Dock Labour Regulations, Contract Labour (Regulation and Abolition) Act 1970 and any statutory amendment or re-enactment thereof for the time being in force.

The successful Contractor shall also obtain certificate of registration under rule No.24 of the 'Building and Other Construction Workers Central Rules 1988' from the office of the Deputy Chief Labour Commissioner (Central)-IV, Mumbai.

- 7.1.3. The Contractor shall display on the site of the Work notices regarding wages etc. as are required under the law. The Contractor shall also maintain Wage Books and Wage Slips and other records concerning labour/ workers as are required under the law.
- 7.1.4. The Contractor shall submit periodical return records concerning the labour employed on the Works, to the Engineer's representative.
- 7.1.5. The Contractor shall ensure that none of his or his Sub-Contractor's employees camp at the site/ working area or at the Employer's lands/ premises without written permission.
- 7.1.6. The Contractor shall be responsible for the observance by his sub-contractors of the foregoing provisions.
- 7.1.7. The Employer shall have the right to deduct from the moneys due to the Contractor, any sum required or estimated to be required for making good loss suffered by a worker or workers by reason of non-compliance by the Contractor to the existing laws and regulations concerning the labour employed on the Work.
- 7.1.8. The contractor shall comply with the following conditions while deploying of casual labours on the contracts awarded to them by MBPA and submit the required documents in support thereof.
 - a. Registration with Employees Provident Fund (EPF), Organisation & intimation of P.F. Registration code No.
 - b. Registration with Employees State Insurance Corporation and submission of ESI code No and updating the contribution towards the ESIC,
 - c. Workmen Compensation Policy shall be invariably taken irrespective of labour strength,
 - d. Labour License shall be obtained if the deployed man power is more than 19,
 - e. All the workmen shall be paid as per Minimum Wages Act.
 - f. Payment to the workers shall be made through Bank accounts only;
 - g. All the workmen should be covered under Life Insurance under Pradhan Mantri Bima Scheme.

All the conditions mentioned above, shall be scrupulously followed failing which

payment of bills will not be recommended. Dock Entry permits will be issued to only those labourers who carry EPF/ESIC Id Cards.

7.2. Supply of drinking water to labour:

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

7.3. Festivals and religious customs:

The Contractor shall in all dealings with labour in his employment have due regard to all recognised festivals and observe days of rest as applicable to the outdoor staff of the Engineering Department of Mumbai Port Authority.

7.4. Epidemics:

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

7.5. Disorderly conduct etc.:

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or among his employees, officers or agents and for the preservation of peace and protection of persons and property in the neighbourhood of the works against the same.

7.6. Foot wear, gloves etc.:

The Contractor shall at his own expense provide footwear and gloves for all labour engaged on concrete mixing work and all other types of work involving the use of tar and cement, glass shields for welder and diving equipment for divers etc. to the satisfaction of the Engineer or his Representative and on his failure to do so, the Employer shall be entitled to provide the same and recover the cost from the Contractor.

7.7. Accidents:

The Contractor shall within 24 hours of the occurrence of any accident at or about the site or in connection with the execution of the Work report such accidents to the Engineer and the Engineer's Representative. The Contractor shall also report such accidents to the concerned constituted authorities.

7.8. Fair wages clause:

- (i) The Contractor shall pay the labourers engaged by him on the work not less than fair wages which expression shall mean whether for time or piece work the respective rates of wages as fixed by the Central Public Works

Department as Fair Wages for Greater Mumbai payable to the different categories of labourers as set out in the schedule annexed thereto. However, subject to the other provisions in the Conditions of Contract herein and to provision of any other law for the time being in force in the country.

- (ii) Contractor shall notwithstanding the provision of any contract to the contrary cause to be paid a fair wages to the labourers directly engaged on the work including any labour engaged by the sub-Contractor in connection with the said works as if the labourers had been immediately employed by him.
- (iii) Display of notices regarding wages, etc.:
The Contractor shall, before he commences his work of contract, display and correctly maintain and continue to display and correctly maintain in a clean and legible condition at conspicuous places on the work site notices in English and in the local Indian language spoken by the majority of the workers stating therein the rates of wages which have been fixed as fair wages and the hours of work for which such wages are earned and send a copy of such notices to the Engineer, Mumbai Port Authority.
- (iv) Wages, Books and Wage Slips: -
The Contractor shall maintain Wage book of each worker in such form as may be convenient but the same shall include the following particulars.
 - i) Rate of daily or monthly wages.
 - ii) Nature of work on which employed.
 - iii) Total number of days worked during each wage period.
 - iv) Total amount payable for the work during each wage period.
 - v) All deductions made from the wages with all indications in each case of the ground for which the deductions are made.
 - vi) Wages actually paid for each wage period.A wage slip for each worker employed on the work.

Provided that the Engineer may grant exemption from the maintenance of the wage slip if in his opinion not more than 10 persons are likely to be employed directly or indirectly on the work but in any case he will have to maintain wage books.

- (v) Preservation of books and slips:
The wage books and the wage slips shall be preserved for a period of not less than 12 months after the date of last entry made in it.
- (vi) Inspection of books and slips:
The Contractor shall allow inspection of the aforesaid wage books and wage slips to any of his workers or to an agent at a convenient time and place after due notice is received or to the Engineer, MBPA or any other person authorised by him or on his behalf.
- (vii) The Engineer, MBPA or any other person authorised by the Engineer on his behalf shall have power to make enquiries with a view to ascertaining and enforcement due and proper observance of the fair wage clause. He shall also have the power to investigate into any complaint regarding any

default made by the Contractor or sub-Contractor in regard to such provision.

- (viii) The Engineer shall have the right to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers for the reason of non-payment of the aforesaid fair wages except on account of any deductions that may be permissible under any law for the time being in force.
- (ix) The contractor will be required to submit evidence of payment of wages to the labour/ workmen in to their bank account, the statement of remittance towards wages, EPF & ESIC for all labours engaged for the subject work along with their bills duly verified by the Executing Engineer and an Officer of the Welfare Division of Mumbai Port Authority. The wages and remittances for ESIC, EPF etc. shall be in accordance with the prevailing labour laws, rules and regulations governing the minimum wages Act. The contractor's bills will not be processed / passed/ in case of non-compliance of these provisions in the contract

8. **Materials and Workmanship:**

a) Quality of materials, workmanship and tests:

- i. All material and workmanship shall be of the respective kinds described in the Specification and in accordance with the Engineer's Instructions and shall be subjected from time to time to such test as the Engineer may direct at the place of manufacture or fabrication, on the Site or any approved Testing Laboratories. The scale of sampling and testing shall be as per norms prescribed by the Bureau of Indian Standard, and where not prescribed by BIS the same shall be as directed by the Engineer.
- ii. The Contractor shall provide such assistance, instruments, machines, labour and materials as are normally required for inspection, sampling, measurement or testing any work and the quality, weight or quantity of any material used and shall supply samples of materials before incorporation in the Works for testing as may be selected and required by the Engineer.
- iii. The material under test shall be stacked by the Contractor separately and he shall not use a material unless and until it is tested and accepted by the Engineer or his Representative. In case of violation of this requirement by the Contractor, payment may not be made for the work executed with such materials. If the Contractor repeatedly violates the above requirement, the Employer will be at liberty to determine the contract and the Contractor will be responsible to the Employer for the damage thereby incurred by the latter.
- iv. Acceptance/ rejection of the material(s) will normally be communicated to the Contractor as per the test result findings. Rejected material shall be removed from the site by the Contractor within three days of rejection

or such period as may be specified by the Engineer or his Representative.

- v. The Contractor shall arrange to test any of the materials/ finished items/ concrete cubes etc. as per relevant IS Specifications in laboratories of Engineer's choice. All other costs (except the testing charges) i.e. cost of material, packaging, transportation etc. shall be borne by the Contractor. The testing charges shall be borne by the Employer if the test results are satisfactory except for the testing carried out at the Contractor's Material Testing Laboratory at site. If the test results are unsatisfactory/not as per relevant IS Specifications/ MBPA's Specifications, the testing charges shall be borne by the Contractor. The payment of testing charges for satisfactory test results will be reimbursed through the Contractor's next interim bill.
 - vi. Construction Materials may be tested at following Laboratories
 - 1. VJTI Material Testing Lab
 - 2. MCGM Material Testing Lab at worli.
 - 3. Structwel Designers & Consultants Pvt. Ltd.
 - 4. TCS lab
 - 5. S.K.G. Project & Engg. Pvt. Ltd.
 - vii. Construction Material testing labs other than listed above also can be included in the above list after obtaining Chief Engineers specific approval.
 - viii. Employer however reserves the right of choice of testing laboratory
- b) Access to place of manufacture/ works etc.:
The Employer and the Engineer and any person authorised by them shall at all times have access to the Contractor's plant, Works and to the site and to all workshops and places where work is being prepared or where material, manufactured articles or machinery are being obtained for the Works and the Contractor shall afford every facility for and every assistance in obtaining right to such access.
- c) Examination of work before covering up:
No work shall be covered up or put out of view without the approval of the Engineer or the Engineer's Representative. The Contractor shall afford full opportunity for the Engineer or the Engineer's Representative to examine and measure any work, which is about to be covered up or put out of view and to examine foundations before permanent work is placed thereon. The Contractor shall give due notice to the Engineer's Representative whenever any such work is ready or about to be ready for examination and the Engineer's Representative shall without unreasonable delay attend for the purpose of examining and measuring of such work.
- d) Removal of improper work and materials:

The Engineer or his Representative shall, during the progress of the works,

have power to order in writing from time to time.

- a. the removal from the site within such time or times as may be specified in the order, of any materials which in the opinion of the Engineer or his Representative are not in accordance with the Contract, and
- b. the substitution of the materials so removed by proper and suitable materials, and
- c. The removal and proper re-execution (notwithstanding any previous test thereof or interim payment thereof) of any Work which in the opinion of the Engineer or his representative is not in accordance with the Contract in respect of materials or workmanship.

In case of default on the part of the Contractor in carrying out such order the Employer shall after giving a notice to the Contractor, be entitled to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be borne by the Contractor and shall be recovered from him by the Employer or may be deducted by the Employer from any moneys due or which may become due to the Contractor.

e) Right to use before tests:

If the Contractor neglects to make the tests on completion within the time stipulated by the Contractor, the Engineer / Employer shall nevertheless have the right of using the works at the Contractor's risk until the test on completion are successfully carried out.

9. **Commencement and Delays:**

9.1. Release of site for carrying out the works:

The Contractor shall complete all initial formalities for the tender such as payment of Security deposit, taking out necessary insurance policies, Labour License etc. under this contract within **21 days** after the date of receipt of the letter of acceptance of his offer. If the Contractor delays these activities, the contract will be liable for termination and the Earnest money deposited by him will be forfeited and the Contractor will be responsible for the losses suffered by the Employer.

The site will be released in whole/ parts immediately after Contractor fulfilling all above mentioned formalities. Provisions of clause 6.3 B & C may also be referred.

9.2. Commencement & execution of works:

Contractor shall commence the work immediately at the site or part site(s) released to them. The works shall be carried out as in the 'Schedule of Quantities & Rates' and as specified and as directed.

9.3. Remedy for Contractor's failure to make proper progress:

Upon the Engineer certifying that, in his opinion, the Contractor, after receiving from the Engineer a written notice,

1. has suspended progress on any portion or any item of the Works for seven

- days, or
2. has failed to make proper progress on any portion of item of the works for seven days, or
 3. has failed to complete any portion or items of the works by the time specified by the Engineer, or
 4. has failed to remove from site within seven days, materials which have been condemned and rejected, or
 5. has failed to pull down within seven days and rebuild within the time stipulated by the Engineer, works which have been condemned and rejected, or
 6. has failed to give to the Engineer or his Representative proper facilities for inspecting the works or any part thereof for three days, or
 7. has failed to carry out proper tests for three days on any work or materials,

then the Employer, without restricting/prejudice to their rights under relevant Clause in the 'Conditions of Contract' and without expelling the contractors from the site of works, without determining the contract and while permitting the Contractor to carry out other balance works under this contract, may carry out at the risk and cost of the Contractor

- a. the execution of such portion or items of the works which the Contractor has suspended or failed to make proper progress in or failed to complete within the specified time,
- b. removal of condemned and rejected materials from the site,
- c. pulling down and rebuilding of condemned and rejected work,
- d. the provision of proper facilities for inspecting the works, and
- e. Testing of any work or materials.

In such cases, additional expenditure incurred if any by the Employer over and above that which would have been incurred by him had the above works been carried out by the Contractor under the terms of this contract shall be paid by the Contractor to the Employer. The Employer reserves his right to recover such additional expenditure from the money's payable to the Contractor or from deposits or such amount that may have been lodged by the Contractor with the Employer for due performance of the contract. The Employer further reserves his right to recover such additional expenditure from the money's Payable to the Contractor for any other contracts or transactions of any nature whatsoever existing between the Employer and the Contractor.

Further, MBPA reserves the right to debar/ blacklist the contractor for 3 years from taking up any MBPA works/ contracts.

9.4. Suspension of work on order of Engineer:

The Contractor shall on the written order of the Engineer or his representative suspend the progress of the Works or any part thereof for such time or times and in such manner as the Engineer or his representative may consider necessary and shall, during such suspension, properly protect and secure the Work so far as is necessary in the opinion of Engineer or his representative and shall not resume the execution of the same until a written order is received from the Engineer or his Representative to proceed. Cost, if any, incurred by the Contractor in giving

effect to the instructions of the Engineer or his Representative under this clause shall not be borne or paid by the Employer.

9.5. **Completion Period: (Pl refer Clause no 4 of SCC)**

- 9.5.1. The completion period for the work covered under this tender is mentioned in the tender Notice hereinbefore. The completion period will commence from the date of release of first part or full portion of the site. In case the site is released in parts due to site difficulties, for each part, the site release letter shall be issued with specific time period and works to be completed with the approval of Chief Engineer. Contractor shall ensure completion of works in released part of site. If the site is released in parts and completion period is over, then the work will not be treated as delayed and LD shall not be recovered from contractor's bill. However, in such cases invariably extension shall be processed for variation committee / competent approval at appropriate time. The time variation can be interim or final.
- 9.5.2. The work shall be completed in accordance with the provisions of the Contract with any authorised alterations, amendments, additions or omissions within the completion period stipulated or such further period as may be allowed by the Engineer under Clause No.9.6 hereunder and shall not be considered as completed until the Engineer has certified in writing that it has been completed to his satisfaction.
- 9.5.3. If the work is delayed beyond the completion period stipulated in the contract or extended period as may be allowed by the Engineer in accordance with Clause No.9.6 hereunder, the Contractor shall be liable to pay liquidated damage to the Employer as set out in Clause No.9.8 hereunder.
- 9.5.4. If the delay in completion of the work is more than twenty-five percent (25%) of the stipulated completion period, the contract is liable to be terminated.
- 9.5.5. Completion period shall be excluding monsoon for Marine and Asphalt works. For all other works it should be including monsoon. Monsoon period will be reckoned from 01st June to 30th September of respective year.

9.6. **Extension of time:**

9.6.1 In the event of

- (i) any delay, impediment or prevention by employer
- (ii) Any extra or additional works
- (iii) Exceptionally adverse climatic conditions
- (iv) Other special circumstances which may occur other than through a default of or breach of contract by the contractor or for which he responsible.

which may occur be such as may in the opinion of the Engineer fairly entitle the Contractor to an extension of time for the completion of the work, the Engineer

shall determine the period of such extension, subject to the condition that any and every extension of time granted by the Engineer shall be deemed to be in full compensation and satisfaction for and in respect of any and every actual or possible loss/ damage or injury sustained or sustainable by the Contractor in respect of the cause or causes giving rise to such extension. Provided further that the Engineer is not bound to take into account above circumstances / event unless the Contractor has within 28 days after such circumstances / event have arisen or as soon thereafter as is practicable delivered to the Engineer's Representative particulars of any claim to an extension of time to which he may consider himself entitled in order that such claim may be investigated at that time.

9.6.2 As per MbPA transparency plan, the extension in completion period will be initially approved by Chief engineer and will be sent for audit concurrence. On receipt of audit concurrence, the proposal will be put-up to variation committee. Based on recommendations of variation committee, it will be put up for competent sanction. This complete process will take about 60 days' time which the contractor shall note.

9.7. **Working hours:**

The Working Hours shall normally be from 09.00 A.M. to sunset. No work shall be carried out between sunset and 09.00 A.M. and on Sundays and on public holidays except with the previous sanction in writing of the Engineer or his Representative. However, granting of such permission will be entirely at the discretion of the Engineer or his Representative and cannot be claimed by the Contractor as a matter of right. The refusal to grant such permission will not be accepted as a ground or excuse for not completing the Works within the contract period stated above or as a ground for the Contractor to claim additional payment. However, the timing of the place of work/ office/ hospital shall be followed for working in coordination with the concerned staff thereat.

9.8. **Liquidated damages for delay in completion:**

9.8.1 If the Contractor fails to complete the Work within the time prescribed in the Contract or extended time as may have been granted by the Engineer, then the Contractor shall pay to the Employer, liquidated damages for such default (and not as a penalty).

9.8.2 The Liquidated Damages for delay to complete the work covered under this contract shall be 1/2 % (0.5%) of the contract price for delay of each week or part thereof in completion of work subject to a maximum ceiling of 10% of the contract price. Provisions of clause 9.5.1 shall also be considered while framing L.D charges.

9.8.3 However, if the work is delayed by more than 25% of the contracted completion period of that part, the contract for that particular part is liable to be terminated and the balance work of that part are liable to be got completed by Mumbai Port Authority through any other agency at the risk and cost of the defaulting Contractor. In such cases the contractor will be debarred for a period of three

years.

9.8.4 The Employer may without prejudice to any other method of recovery deduct the amount of such damages from moneys in his hands due or which may become due to the Contractor from this contract only. The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the works under tender or from any other of his obligations and liabilities under the Contract.

9.9. **Certificate of substantial completion of works: (Not applicable to this contract)**
(Refer Clause 12 of SCC)

9.9.1. As soon as, in the opinion of the Engineer the works have been substantially completed and have satisfactorily passed any final test that may be prescribed by the Contract, and the site shall have been handed back by the Contractor to the Employer, the Engineer may on receiving a written undertaking by the Contractor to finish all outstanding work during the first two months of Defect liability period, issue a certificate of substantial completion. The Defect Liability Period for the Works shall commence from the date of such certificate. In the event of the outstanding works not being completed within two months from the date of issue of the Substantial Completion Certificate, the Work shall be deemed not to have been taken over on the date of the Substantial Completion Certificate and the Defect liability period thereof shall begin only when the outstanding works are completed in all respects and handed over to the Engineer.

9.9.2. The issue of such certificate of Substantial Completion is a matter to be decided by the Engineer in his absolute discretion and the discretion will be exercised in cases of the following types.

- i) Work has been completed to such an extent that the Employer is enabled to occupy and make gainful use of it to the extent he intended to and such gainful use can be made by him without being unduly inconvenienced by concurrent execution of the balance of works by the Contractor.
- ii) The work has been absolutely handed over to another agency and the balance of works is small and the Contractor cannot undertake these small balance works efficiently concurrently with the work of the other agency.

9.9.3. In cases where the Engineer decides that the circumstances justifying issue of certificate of Substantial Completion do not exist, the date of completion means the date on which the work has been completed in all respects (barring rectification of minor defects, which rectification does not interfere with the gainful use.

9.9.4. **Bonus: (This clause is not applicable to this tender- Refer clause no 13 of SCC)**

In case the contractor completes construction of the entire work ahead of schedule, the Employer shall pay to the Contractor by way of Bonus an amount equivalent to 0.25% of the contract Price per week or part thereof. However, the ceiling on the amount of Bonus payable by the Employer, shall not exceed 1 (one) percent of the Contract Price. Such incentive is not eligible for payment if the work is not completed within contracted

completion period. It means any work for which extension is granted becomes ineligible for bonus clause.

10. Maintenance and defects:

10.1. Defect during execution:

The Contractor shall at his own cost and within three days after notice in writing to that effect has been given, commence to re-execute such portion of the works under each part of the tender as the Engineer or his Representative may consider have been executed in an unsatisfactory manner, even though the works may have been previously passed, or even if the Contractor's attention had not been previously drawn to the unsatisfactory nature thereof. No certificate that may be granted by the Engineer to the Contractor under these presents shall relieve the Contractor from his liability for and in respect of unsound work discovered prior to the date of issue of the final certificate.

10.2. Defect liability period: (Refer Cl. No. 7 of SCC)

Defect Liability Period for the works covered under this contract is one year.

10.3. Repair and remedies during defect liability period:

During the Defect Liability Period, the Contractor shall execute all such works of repair, amendment, reconstruction, rectification and making good of defects, imperfections, shrinkages or other faults as may be instructed to the Contractor in writing by the Engineer. Such repair or remedial measures shall be attended within fourteen days from the date of receipt of written instructions.

As regards to the procedure of carrying out the repair/s, rectification and making good of defects, the decision of Engineer shall be final and binding upon the Contractor. The works carried out during the Defect Liability Period shall also be maintained till the end of Defect Liability Period.

10.4. Cost of repairs and remedies:

All such work of repairs and remedies shall be carried out by the Contractor at his own expense, if in the opinion of the Engineer, the same is due to the use of materials or workmanship not in accordance with the Contract or due to neglect or failure on the part of the Contractor to comply with any obligations expressed or implied under the contract.

10.5. Remedy on Contractor's failure to carry out work as required:

If the Contractor fails to do any such work of repairs and remedies and as required by the Engineer, the Employer shall be entitled to carry out such work by his own workmen or through other Contractor. The cost so incurred shall be deducted from contractor's retention money or any money's due or that become due to the Contractor.

11. Additions, Alterations and Omissions:

11.1. Variations:

- (i) The Engineer may make any variations in the, quality or quantity of the Works, or any part thereof that may in his opinion be necessary, and for that purpose or if for any other reason it shall in his opinion be desirable, shall have powers to order the Contractor to do and the Contractor shall do any of the following.
- a. Increase or decrease the quantity of any work included in the Contract.
 - b. Deletion of any work.
 - c. Change the character or quality or kind of any work.
 - d. Change the levels, lines, position and dimensions of any part of the Works, and
 - e. Execute additional work of any kind necessary for the completion of the Works.

Such variation shall not in any way vitiate or invalidate the Contract but the value (if any) of all such variations shall be taken into account in ascertaining the amount of the Contract Price.

- (ii) No such variation shall be made by the Contractor without an order in writing of the Engineer, provided that no order in writing shall be required for increase or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this clause but is the result of the quantities required to be executed for completion of the work being more or less than those stated against the respective items in the Schedule of Quantities and Rates, and provided further that in such cases, variation from the rates in the accepted Schedule of Quantities and Rates shall not be allowed.
- (iii) The valuation of extra item / substituted item / modified item shall be made in accordance with Clause No.11.2 hereunder, provided that the varied work has been executed with the prior approval of the Engineer.
- (iv) If extra item / substituted item / modified items are executed by the Contractor without the prior approval of the Engineer, such work is liable to be rejected and shall be re-executed by the Contractor at no extra cost. However, the Engineer, at his sole discretion, may accept such works, but the payment for the same will be made after reduction of ten percent (10%) from the valuation of such works made as per Clause No.11.2.

11.2. Valuation of extra item / substituted item / modified item:

The rate for any extra item/ substituted item/ modified item shall be determined by the Engineer as detailed below.

- a) From a similar item if such an item exists in the tender.
- b) From a comparable item, if such an item exists in the tender.

If (a) & (b) are not available then, in the following order of preference

- c) From a similar or comparable item from the Mumbai Port Authority Schedule of Rates.
- d) From CPWD Analysis of Rates/ All India Standard Schedule of Rates -Standard Analysis of Rates published by Government of India, Ministry of Works and

Housing, National Buildings Organisation and using current costs of labour and materials and with an allowance of 10% on direct costs toward contractors' profit and overheads.

- e) From actual direct costs of labour and materials consumed and with an allowance of 10% towards contractors' profit and overhead.

In case of (d) and (e) above, the Contractor shall submit vouchers in respect of the rates of labour, material and hire charges of hired plant and equipment paid by him. In case of plant and equipment owned by the Contractor, the rates of hire charges to be billed will be fixed by the Engineer.

Provided that no increase of the Contract price under this clause of variation of rate or price shall be made unless as soon after the date of the order as is practicable, and in the case of extra or additional work before the commencement of the work or as soon thereafter as is applicable, notice shall have been given in writing:

Provided further that in the event of the Contractor disagreeing with the rate determined by the Engineer, the Contractor shall not stop the work but shall expeditiously execute the same and the Employer will make provisional payment at the rate determined initially pending review and final decision.

If the valuation of rates of extra items/ substituted/ modified items are determined as per Clause Nos.11.2(a), 11.2(b) & 11.2(c) then the percentage on total amount/ offered/ quoted by the Contractor above or below the estimated cost put to the Tender shall be applied to these rates and if the valuation of rates of extra items/ substituted items are determined as per Clause Nos.11.2(d) & 11.2(e) then the percentage on total amount/ offered/ quoted by the Contractor above or below the estimated cost put to the Tender Notice, shall not be applied to these rates.

11.3. Payments for extra work:

The contractor shall send to the Engineer once in every month an account giving particulars (as full and detailed as possible) of all payments for any additional works to which the contractor may consider himself entitled and of all extra and additional works ordered by the Engineer which he has executed during the preceding months and no claim for payment for any such works will be considered which has not been made within such time as may be possible for the Engineer to physically check the said extra or additional work done by the contractor. Provided always that the Engineer shall be entitled to authorise payment to be made for any such works notwithstanding the contractor's failure to comply with this condition, if the contractor has at the earliest practicable opportunity, notified the Engineer that he intends to make a claim for such works.

12. Plant, temporary works and materials:

12.1. Exclusive use for the works:

All Construction Plant, Temporary Works and materials provided by the Contractor shall when brought on to the site be deemed to vest in the Employer and the Contractor shall not remove the same without the consent in writing of the Engineer's representative. Provided that nothing contained in these conditions shall prevent the Employer from retaining on the site for the due completion of the Works any item of construction plant, Temporary Works and materials after the happening of any event, which gives to the Engineer the right to exclude the Contractor from the site and proceed with the completion of the Works. Upon the completion of the Works, or certification by the Engineer that the plant, Temporary Works or materials are no longer required for the Works, the same shall be deemed to re-vest in the Contractor, who may then remove them from the site of work within the period stipulated by the Engineer.

12.2. Removal of plant etc.:

Upon completion of the works, the Contractor shall remove from the site all the said construction plant and temporary works remaining thereon and any unused and surplus materials provided by the Contractor and rubbish of every kind and leave the whole of site and Works clean and in a workmanlike condition to the satisfaction of the Engineer. If the Contractor fails to remove any of the said construction plant, temporary works or unused materials or rubbish within such reasonable time after the completion of the Works as may be allowed by the Engineer, then the Employer may sell the same and shall after deducting from the proceeds, the costs, charges and expenses of and in connection with such sale, pay the balance if any to the Contractor.

12.3. Employer not liable for damage to the plant etc.:

The Employer shall not at any time be liable for the loss or damage of said construction plant, temporary Works or materials.

12.4. Employer's plant and equipment:

The Contractor may be permitted the use of the Employer's plant and other equipment (if the same can be conveniently spared) only on payment of deposit and such charges as may be determined, and on execution of Agreements as may be prescribed by the Employer. Such plant and equipment will be given on commercial terms as applicable to other users.

While using the equipment the Contractor shall carry out such directions as may be given by the Docks Manager or other office in-charge of such equipment and pay to the Employer the charges that are due but in event of his failure to do so, the amounts due shall be recovered from any amount that shall become due and payable to the Contractor.

The Employer does not guarantee availability of his plant and equipment for use by the Contractor.

Presently, MBPA weigh bridges only are available for material weighment.

13. **Measurement:**

13.1. Quantities:

The quantities set out in the Schedule of Quantities and Rates are the estimated quantities and are liable to altered or omitted to any extent.

13.2. Works to be measured:

The Engineer shall ascertain and determine by measurement, the value of the work done in accordance with the Contract. From time to time during the execution of the works and whenever required by the Engineer or his Representative, detailed measurements of any part or parts of the Work shall be taken jointly by the Engineer's Representative and the authorised representative of the Contractor. If any work is likely to be covered up or put out of view the Contractor shall give due notice to the Engineer's Representative to enable him to examine and measure such work before it is covered up or put out of view (see Clause No.8.C of 'Conditions of Contract'). The Contractor shall provide qualified staff and appropriate equipment to assist the Engineer or his Representative in taking such joint measurements and shall furnish all particulars required by either of them. The measurements will be recorded by the Engineer's Representative in the Measurement Books, which shall be countersigned by the authorised representative of the Contractor at the time of recording the measurements.

If the Contractor has any difference of opinion as to the recorded measurements, he shall submit, in writing, to the Engineer, within one week from the date of the measurement, the details as to the points of differences claimed, which will be examined and decided upon by the Engineer separately.

Should the Contractor or his authorised representative fail to forthwith attend for taking the measurements along with qualified staff and appropriate equipment after having been intimated by the Engineer or his Representative,

and/ or

fail to countersign the measurements in the Measurement Books,

and/ or

fail to submit to the Engineer, in writing, within one week from the date of the measurement, the details of the points of differences claimed, if any,

then the measurements taken and recorded by the Engineer's Representative shall be taken to be the correct measurements which shall be final and binding on the Contractor and the Contractor shall have no right to dispute the same.

Should the Contractor fail to give due notice to enable the Engineer's Representative to examine and measure works before the same are covered up or put out of view, such work will not be measured and the Contractor shall have no right to claim payment for the same.

The authorised representative of the Contractor is also required to countersign the Progress Books, cement register, material register and all other record books, in which the Engineer's Representative records the progress in connection with

the contract work. In case the contractor's representative does not countersign the above records, the records maintained by the engineer's representative shall be treated as final and binding on the contractor.

13.3. Method of measurement:

The Works shall be measured net, notwithstanding any general or local custom except where otherwise specifically described or prescribed in the Contract.

14. **PRICE VARIATION & PRICE ADJUSTMENT: (This Clause not applicable to this Tender. (Refer clause no 8 of SCC)**

14.1 The Contractor will be paid Price Variation for the labour & material components and Price Adjustment for Bitumen in accordance with the following formula:

14.2

PRICE VARIATION

(I) (A) Formula for Labour Component

$$V_1 = 0.85 \times (R-C) \times \frac{K_1}{100} \times \frac{I - I_0}{I_0}$$

Where

V_1 = Amount of variation payable for a value R of work done.
R = Value of work done during the period under consideration.

C = Cost of Bitumen calculated on star rate for quantity as per mix design/ technical specifications, incorporated in to the work during the period under consideration to be taken from (II) A.

K_1 = Percentage of Labour Component to be taken as 25%.

I_0 = Basic Consumer Price Index for Mumbai Centre (Base 2012 = 100) for industrial workers declared as per the Labour Gazette, published by the Commissioner of Labour, Government of Maharashtra as prevailing on the Base Date (28 days prior to the last date for submission of the Tender).

I = Average Consumer Price Index for Mumbai Center (Base 2001 = 100) for industrial workers declared by Labour Gazette, published by the Commissioner of Labour, Government of Maharashtra for the period in which the value R of work is done. If the period covered by a bill does not coincide with a calendar month, then weighted time average for the period will be taken for I.

(I) (B) Formula for Balance Material Component (excluding Bitumen).

$$V_2 = 0.85 \times (R-C) \times \frac{K_2}{100} \times \frac{M - M_0}{M_0}$$

Where

- V_2 Amount of variation payable for a value R of work done on account of material.
- R = Value of work done during the period under consideration.
- C = Cost of Bitumen calculated on star rate for quantity as per mix design / technical specifications, incorporated in to the work during the period under consideration to be taken from II A.
- K_2 = Percentage of Material Component to be taken as 70%.
- M_0 = Wholesale price index for all commodities prepared by the office of Economic Advisor, Ministry of Industry, Government of India as prevailing on the Base Date (28 days prior to the last date for submission of the Tender).
- M = Average wholesale price index for all commodities prepared by the office of Economic Advisor, Ministry of Industry, Government of India, during the period under consideration. If the period covered by a bill does not coincide with a calendar month, then weighted time average for the period will be taken for M.

(I) (C) Formula for Petrol, Oil and Lubricant (POL) Component

$$V_3 = 0.85 \times (R-C) \times \frac{K_3}{100} \times \frac{P - P_0}{P_0}$$

Where

- V_3 Amount of variation payable for a value R of work done on account of POL component.
- R = Value of work done during the period under consideration.
- C = Cost of bitumen calculated on star rate for quantity as per design mix/ technical specification, incorporated in to the work during the period under consideration to be taken from II A.
- k_3 = Percentage of POL Component to be taken as 5%.
- P_0 = Star Rate for HSD.
- P = The price declared by IOC/HPCL/BPCL of HSD for Mumbai during the period under consideration.

14.3 (II) (A) Price Adjustment for Bitumen

After removal of actual cost of bitumen for B above, price adjustment for the cost of bitumen will be made as follows:

$$P_b = Q_b \times R_s \times \frac{B_1 - B_0}{B_0}$$

Where

- P_b = Price adjustment on account of variation in price of bitumen.
- Q_b = Quantity in MT of Bitumen consumed as per the design mix/ technical specification for actual weight of asphaltic material laid in the work during the period under consideration.
- R_s = Rate per MT of Bitumen prevailing on the Base Date i.e. Star Rate.
- B_1 = The price declared by IOC/HPCL/BPCL (depot) of Bitumen at Mumbai from the day on which price rise announced during the period under consideration.
- B_0 = Star Rate for Bitumen.

- 14.4 (A) The quantity of bitumen shall be worked out based on the percentage of bitumen specified in the mix design / Technical specifications for asphaltic materials like mastic asphalt, asphaltic macadam and asphaltic concrete.
- (B) The time of completion of the contract shall mean the period commencing from the date of the commencement of the contract and ending on the date when the time allowed for the work specified expires, taking into consideration the extension of time, if any, for completion of the work granted by Engineer under the relevant clause or the conditions of contract in cases other than those where such extension is necessitated on account of default of the contractor. The decision of the Engineer as regards the time of completion of the contract shall be final, conclusive and binding on the contractor, where compensation for delay is levied on the contractor on account of delay in completion or inadequate progress under the relevant contract provision the escalation amount for the balance work from the date of levy of such compensation shall be worked out as follows:
- (a) Indices I, M, P, Ic, Is and B_1 will be pegged / freeze to the levels corresponding to the date from which such compensation for delay is levied.
- (b) Pegged indices as well as actual indices prevailing at the time of calculation of escalation for the period under consideration will be compared and lower of the two will be taken for calculating actual escalation amount.
- (c) The price variation under this clause shall not be payable for the extra items required to be executed during the completion of the work, where the rates payable for the extra items are to be fixed as per the

current market rates provided under relevant clause of Conditions of Contract.

- (d) This clause is operative both ways, i.e. if the price variation in the said Wholesale Price Index for all commodities, Consumer Price Index (New Series) or price of HSD of Mumbai or bitumen is on the plus side, payment on account of the price variation shall be allowed to the Contractor and if it is on the negative side, the MBPA shall be entitled to recover the same from the contractor and the amount shall be deductible from the Contractor's bill for the respective period in which there are fluctuation.
- (e) In order to facilitate computation of price variation to be made under this clause the contractor shall keep such books of accounts and other documents as are necessary. The contractor shall allow inspection of the same by a duly authorised representative of the Port and shall at the request of the Engineer may require, true copies of any document so kept and such other information as the Engineer may require for verification.
- (f) Calculation of Price Variation and Price Adjustment amount at the time of preparation of interim measured and final bill will be based on confirm indices and the prices of the POL products and bitumen products declared by IOC/BPCL/HPCL.
- (g) Save and except for what is provided in the foregoing clause, nothing herein shall be construed to entitle the Contractor to reimbursement of any increase in the price of materials or in the wages of labour occurring at any time and for any reason whatsoever, including the imposition of any tax, duty or fee or an increase in the price of any petroleum product, coal, electricity or water effected by or under the order of the Central Government of a State Government.
- (h) In case of Marine works, the Price Variations and Price Adjustments formulae will be similar as detailed in Para 2 above and the cost quoted by the contractor for mobilisation and demobilisation shall not be considered for calculation of Price Variations.

14.5 (C) STAR RATE : **(Not Applicable)**

Sr. No.	Material	Star Rate
1	HIGH SPEED DIESEL	Rs. -----per litre
2	BITUMEN (Not Applicable)	

	a) Grade VG 30 (Earlier known as grade 60/70) For Asphaltic Macadam / Asphaltic Concrete	Rs. ----- per MT
	b) Grade VG10 (Earlier known as grade 80/100) For Tack Coat	RS. -----/- per MT

15. **Certificates and Payments:**

(a) **Mode of payment:**

Mode of payment for civil works:

1. The Contractor shall submit to the Engineer after the end of each month his bills for the Works executed upto the end of the month together with particulars of other amounts to which he is entitled under the Contract. The minimum amount of an interim bill shall be of Rupees Thirty (10) lakhs. However, in exceptional cases, the Engineer/ Engineer's representative at his discretion, may issue an interim bill even if the amount is less than the above.
2. These bills shall be submitted on a printed Proforma to be prepared at the cost of the Contractor as per the Proforma - III(A) or III(B).
3. In a cycle of three interim bills, two consecutive bills will be based on estimated value of work done as certified by the Engineer (referred to as estimated interim bills) and the third bill (referred to as measured interim bill) will be based on detailed measurements as certified by the Engineer.
4. For the purpose of estimated interim bill, the amount to be billed will be worked out by the Engineer's Representative and the Contractor shall submit the bill accordingly.
5. The measured bill shall be based on detailed measurements of the Works taken jointly by the Engineer's Representative and the authorised representative of the Contractor, subject to the provisions of Clause No.13.2 of 'Conditions of Contract'.
6. If the Contractor has any difference of opinion as to the estimated value of work/ measured quantities of work billed he may indicate the same by way of a separate Annexure to the bill and not by altering the estimated value of work/ measured quantities of work recorded by the Engineer's Representative. The differences claimed by the Contractor will be examined and decided upon by the Engineer separately in terms of the contract.
7. All payments against interim bills shall be treated as 'on account' payments subject to adjustment at any time until the date of payment of final bill.
8. The Employer/ Engineer reserve the right to adjust the amount of any bill against the Contractor's dues to the Employer in connection with this contract or in connection with any other dealings of the Contractor with the Employer.

9. In case of interim bills based on estimated value of work, one hundred percentage (100%) of the amount certified by the Engineer shall generally be paid by the Employer within ten (10) working days from the date of certification of the bill by the Engineer.
10. In case of interim bills based on detailed measurement of work Eighty percentage (80%) of the amount certified by the Engineer shall generally be paid by the Employer within ten (10) working days from the date of certification of the bill by the Engineer and the balance twenty percentage (20%) of the amount will be paid by the Employer within twenty one (21) working days from the date of certification of the bill by the Engineer.
11. Every effort will be made by the Employer for making payments to the contractor within the stipulated period. However, if for any reasons, payments are delayed by the Employer beyond the stipulated period after satisfactory submission of Contractor's claim comprising of all the relevant documents, no interest shall be payable for such delayed payments.
12. The Contractor's final bill shall be passed for payment after the Engineer certifies completion/ substantial completion of the work and the Contractor complies with all the Conditions of the Contract excluding the Condition regarding Defect Liability Period.
13. The date, on which the bill amount is credited in to contractor's bank account by the Employer, will be considered as the date of payment for all purposes.
14. The Engineer may at any time make any correction or modification to any certificate, which shall have been issued by him and shall have powers to withhold any certificate if the works or any parts thereof are not being carried out to his satisfaction.
15. In case the Contractor fails to prepare and submit interim or final bills, the Engineer reserves the right to prepare and certify the bills for payment/ recovery as the case may be.

(b) Refund of security deposits:

- i. Upon the Engineer certifying in writing that the Works have been completed, Five percent (5%) Performance Security Deposit mentioned in Clause No.6.2.1.(a) and Additional Security Deposit mentioned in clause no. 6.2.1(b) (if applicable) herein will be refunded to the Contractor, provided there are no breaches of any conditions of the contract as on the date of completion and only after final bill for the work has been certified (excluding any claims referred to arbitration & pending settlement).
- ii. Upon the expiry of the Defect Liability Period, the five percent (5%) Retention Money mentioned in Clause No.6.2.1.(c) will be refunded to the Contractor, provided always that if at such time if any work remain to be executed by the Contractor ordered during the Defect Liability Period pursuant to Clause 10 hereof, the Employer shall be entitled to recover

from the Security Deposit and the Retention Money the actual expenditure incurred by the Employer in the completion of such works or if such works have yet to be completed, the Engineer's estimate of the cost of completion of such works, plus any other amounts due from the Contractor. For Defect Liability Period, RM can be retained with this port trust in the form of BG after work completion.

(c) No interest payable:

No claim for interest from the contractor will be entertained by the Employer in respect of any deposits or with respect to any moneys or balances which may be in the hands of the Employer owing to any dispute between the Employer or the Engineer and the Contractor, or with respect to any delay on the part of the Employer in making monthly or final payments or otherwise.

16. Remedies and Powers:

16.1. Employer's lien:

The Employer shall have a lien on and over all or any moneys that may become due and payable to the Contractor under these presents, and/or also on and over the deposit or security amount or amounts paid under the Contract and which may become repayable to the Contractor under the conditions on that behalf herein contained for or in respect of any debt or sum that may become due and payable to the Employer by the Contractor either alone or jointly with another or other, and either under this or under any other contracts or transactions of any nature whatsoever between the Employer and the Contractor.

16.2. Damages and forfeiture of security deposit:

In case of failure on the part of the Contractor at any time during the currency of the Contract to comply with any of the conditions herein contained or in case of any breach of any of the terms and Conditions of the Contract or if the Employer shall enter and determine the Contract under relevant Clause above no right of action for any work done or for materials or plant of which the Employer may have taken possession in accordance with relevant Clause in any other respect shall arise until the Engineer has certified that the Work has been satisfactorily completed and the costs of completion and penalties due for delay in completion and the periodical payments which have been made to the Contractor have been ascertained and the amount thereof certified by the Engineer in writing. The Contractor shall be liable to make good to the Employer the difference, if any, between the costs of the completion of the Works by the Employer or through other Contractors as aforesaid and the costs on the basis of the Schedule of Quantities and Rates hereunder and all other charges and expenses as shall or may in anyway be incurred or sustained. The Employer shall be at liberty to retain the said sums from any amount that shall become due and payable to the Contractor under this or any other contract without prejudice to the provision hereof. The Employer shall be entitled to forfeit the Security Deposits lodged by the Contractor with the Employer and the Retention Money retained by the Employer under Clause 6.2 above or to assess the loss or damage which the

Employer has suffered by reason of such failure or breach and to appropriate the said Security Deposit towards such loss and damage without recourse to a Court of Law and without prejudice to any right of recovery by and any other means. If however, upon this being done, it appears from the Engineer's certificate that the aggregate amount of the cost of construction and the penalty if any payable by the Contractor is less than the sum which will be justly due to the Contractor in respect of the work actually executed by him upon the basis of the rates and prices hereunder written then the Employer shall pay the balance to the Contractor within a reasonable time after the issue of such certificates and if it so appears that such amount is more the sum aforesaid then the balance shall be paid by the Contractor to the Employer.

16.3. Extras Expenses:

Any extra expenses in addition to the amount specified in the Schedule of Quantities and Rates which may be incurred by the Employer in the performance of the Works, required owing to the neglect or omission on the part of the Contractor or his workmen during the execution of the Contract shall be deducted from any sums due or which may thereafter become due to the Contractor, or the Contractor 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 him in such manner as the Employer may determine.

17. Law and Language:

The Contract shall be interpreted and have effect in accordance with the Law of India and no suit or other proceeding relating to this Contract shall be filed or taken up by the Contractor in any Court of Law except in Mumbai.

The Language for communications shall be English in which the Tender / contract is written.

18. Engineer Decision Final

The whole of the work under this contract shall be carried out under the direction of the Engineer and his decision upon all questions relating to the details of construction or the meaning of the drawings, conditions of contract, Specifications, Schedule of quantities and rates and the methods of carrying out the work shall be final and any dispute arising under in connection with this contract or the carrying out thereof including any question as to construction and meaning of this contract or any clause therein shall be final and binding upon the Contractor whether such decision shall have given by way of certificate or otherwise and whether it shall have been given during the progress of the work or after completion of the same.

19. Notice to Statutory bodies:

The Contractor shall give the notices to traffic police, municipal corporation, police, and other statutory and non-statutory authorities, etc. that may be required by law and obtain all requisite licences for temporary obstructions, enclosures and for any other purposes whatsoever and pay all fees, taxes and charges which may be leviable on account of his/ their own operations in executing the contract.

The contractor shall also give notices to Central Industrial Security Force (CISF), Mechanical Engineering Department, MSSC, Local Police, Port Department and Port Fire and Safety Officer of Mumbai Port Authority and shall abide by their terms and conditions.

20. Safety of existing services:

The Contractor shall take due care and adopt such measures to ensure that the existing underground utility services of Mumbai Port Authority as well as other Public Utility Bodies viz. TATA,BEST,MTNL,MCGM etc. are not damaged during the execution of the work. Exact location and nature of a service shall be ascertained by the contractor from the concerned agencies by taking trial pits at strategic points as directed by the Engineer or his representative. The work in the vicinity of such services shall be carried out to meet the specific requirements of the concerned authority to which the service belongs. Any damage caused to a service, irrespective of the fact that the utmost precautions are taken to avoid damage shall be at the entire risk and cost of the Contractor.

21. Contractor's site office:

The contractor will be allowed, rent free, the use of such ground, as is available at or near the site of work, for his site office, Laboratory& store, as in the opinion of the Engineer's Representative may be absolutely necessary for the execution of works. In case if the contractor desires to have store/ office in MbPA residential buildings and in the absolute discretion of the Engineer, such rooms will be allotted to the contractor subject to the availability and recovery of rental charges as per MbPA rules. The electricity charges shall be recovered at the prevailing MBPA rates from the running bills. If allotted such units shall be vacated within 30 days of the completion of contract period failing which penal rent as per MbPA rules will be recovered from the contractor. The maintenance of such units shall be the sole responsibility of the contractor.

22. Removal of Surplus Excavated Materials & Debris:

All the surplus excavated materials/ debris/ cement plaster/ brick bats/concrete/ wooden scrap materials/ scrap etc. after back filling and debris arising out of the work as ordered by the site Engineer shall be removed by Contractor by making necessary arrangement to dispose it of anywhere out of Mumbai Port Estate. The material shall not be dumped anywhere in Mumbai Port Authority Estate. If any of such materials are found dumped anywhere in Mumbai Port Authority Estate,

a fine of Rs.25,000/- per lorry load will be recovered from the Contractor.

23. Records:

The contractors Site Engineer shall record, keep and maintain progress book, work instruction book, materials, instruction register, hindrance register, work diary, and all such other records as per CVC guidelines and Third Party (Inspection. Such records shall be updated daily and submitted for verification by the Engineer.

24. Facilities to be provided by the Contractor:

24.1. Vehicle:

(This clause not applicable to this Tender. (Refer Cl. No. 01 of SCC))

The contractor at his own cost shall provide within 15 days, from the issue of Letter of acceptance, TWO (2) Air conditioned vehicles, one for part I and other for Part II (For Bunder section GWSD), which are not more than five years old, of any model of Mahindra bolero, Enjoy, Xylo or vehicle/Car of any other manufacturer as approved by the Engineer, for the entire contract period and extended contract period for exclusive use of Engineer and his representative. The vehicles shall be well maintained to the entire satisfaction of Engineer/ Engineer's representative. All expenses for fuel, lubricant oil, other consumables, service and maintenance, drivers, repairs and replacements etc. to be borne by the contractor. The vehicle should be made available on all the days during the contract period except on Sundays & port trust holidays from 9.00 A.M to 7.00 P.M. In case on any day the work is extended beyond 7.00 P.M &/or the work is required to be carried out on Holidays, the vehicles shall be provided on such days till such time the work is carried out at site. However, the usage of vehicle will not exceed 80 Kms. per day calculated on monthly average basis. Kilo Meter will be counted from the requisitioning point (means the location directed by the Engineer) to the dispensing point (means the trip ending point). Such vehicles shall NOT be allowed to pass through MbPA toll gates free of cost if not occupied by MBPA officials. In case of failure to provide vehicles on any day an amount of Rs.5,000 per vehicle per day shall be deducted from the contractor's bills as a penalty. Log book for the vehicle shall invariably be maintained at site to ensure supply of vehicle as per provisions of this clause along with RC book of the vehicle.

24.2. Site Office for MbPA Engineer Incharge: (Refer Clause No 9 Of SCC.)

(Not applicable to this tender)

Subsequent to award of work within 15 days, the contractor at his own cost shall furnish & maintain site office as directed including necessary electrical fittings and fixtures, for the exclusive use of Engineer and his representative during the tenure of contract and extended period. Each site office shall be of min 10' x 20' size Porta cabin and equipped with the following facilities:

Sr. No.	Item	Qty.
1.	Pedestal Fans	2

2.	Tube lights	3
3.	Tables of size 4'6" x min 2'6" feet with storage	2
4.	NEW 1.0 Ton Split AC of approved manufacturer	1
5.	Aqua guard water filter or equivalent	1
6.	Steel cupboard with locking arrangement. 3'x 6'	1
7.	White board	2
8.	Executive Chairs revolving	2
9.	Visitor chairs	6
10.	Desktop Computer – Pentium i7 or higher version with licensed O S, licensed antivirus along with Printer scanner copier	1
11.	Office stationary.	as required

Note:

1. Contractor shall arrange at his own cost the cleaning, maintenance and up keep of this site office during the currency of the contract. After completion of the contract the Desktop Computer and printer shall be handed over to MBPA. The electricity and water supply for site office of Engineer in-charge shall be supplied by the Mumbai Port Authority free of cost if available in the vicinity.
2. For works costing more than five crores, contractor shall provide one trained computer clerk for entire contract period and extended contract period.

25. Adjustments for Changes in Legislation:

The contract price shall be adjusted to take account of any increase or decrease in cost resulting from a change in the laws (including the introduction of new laws and the repeal or modification of existing laws) or in the judicial or official government interpretation of such law, made after cut off date (i.e. 28 days prior to submission of tender), which affect the contractor in the performance of his obligations under the contract.

If the contractor suffers (or will suffer) delay and / or incurs (or will incur) additional cost as a result of these changes in the laws or in such interpretations made after the cut off date, the contractor shall give notice to the Engineer and shall be entitled to (i) an extension of time for any delay (to be established by the contractor) and (ii) payment of such costs arising out of such changes in legislations.

26. Force Majeure

- (A) In this clause, 'Force majeure' means an exceptional event or circumstances:
- a) Which is beyond party's (Employer or contractor) control
 - b) Which such party could not reasonably have provided against before entering into the contract.
 - c) Which, having arisen, such party could not reasonably have avoided or overcome and
 - d) Which is not substantially attributable to the other party

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

- War, hostilities (whether war to be declared or not), invasion, act of foreign enemies
- Rebellion, terrorism, revolution, insurrection, military or usurped power or civil war,
- Riot, commotion, disorder, strike or lockout by persons other than contractor's personnel and other employees of the contractor and sub-contractors,
- Munitions of war, explosive materials, ionising radiations or contaminations by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiations or radio-activity and
- Natural catastrophes such as earthquakes, tsunami, hurricane, typhoon or volcanic activity.

(B) No Breach of Contract:

The failure of the party to fulfil any of its obligations hereunder shall not be considered to be breach of, or default under this contract in so far as such inability arises from any event of Force Majeure, provided that the party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this contract.

(C) Measures to be taken:

- A party affected by an event of Force Majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.
- A party affected by an event of Force Majeure shall notify other party of such event as soon as possible, and in any event not later than 14 days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of the normal conditions as soon as possible.
- The parties shall take all reasonable measures to minimise the consequences of any event of force majeure.

27. Use of MbPA weigh bridges:

The contractor shall be permitted free use of Mumbai Port Authority weigh bridges for weighing of asphaltic materials. However, in case the said weigh bridges are out of order / not available for whatsoever reason, the contractor will be allowed to weigh the asphaltic materials at private weigh bridges at their cost.

28. As made drawing and progress photographs:

- i) On work completion, contractor shall submit as made drawings in soft and hard copy format. The same will be checked by the engineer and will be corrected by contractor if necessary. As made drawings will generally be required for new works such as new road construction, new drainage- water supply lines laid, new bldg. construction, or any alterations done in existing structure.
- ii) The Contractor shall at his cost and expenses supply to the Employer prints of colour photographs of progress & completed work from time to time. Minimum 100 photographs shall be submitted for entire work. The photographs shall be of size 8" x 10" each. The album shall be handed over to the Employer. No prints or soft copy shall be supplied to any person or persons without the previous permission of the Employer in writing.

29. Mobilisation Advance: **(Not applicable to this Tender. Refer Clause No 10 Of SCC)**

(a) The Employer will make an advance payment to the Contractor exclusively for the costs of mobilisation in respect of the works for an amount equivalent to ten percent (10%) of the Contract Price stated in the Letter of Acceptance (rounded off to the lower Ten thousand), payable in local currency only. This advance will be paid against a Bank Guarantee of amount equivalent to 110 % of amount payable under this clause and at an interest rate of MCLR plus 2%. MCLR shall mean MCLR of the State Bank of India as on the date of release of advance. Payment of such advance amount will be made as prescribed in paragraph (b) below, under separate certification by the Engineer after

- a. submission of Bank Guarantee by the Contractor in the format as approved by MBPA;
- b. provision by the Contractor of the performance security, the amount, the currencies and mode stated in the Clause 13 of Instructions to Bidder;
- c. the Contractor has submitted programme as per Clause No.7.3 of General Conditions of Contract; and

The Bank Guarantee shall remain effective until the Advance Payment has been repaid pursuant to para (c) below.

(b) The Advance Payment will be released in two instalments as under:

1st Instalment: An amount equivalent to five percent (5%) of the Contract Price stated in the Letter of Acceptance (rounded off to the lower Ten thousand) after fulfilment of conditions stipulated in paragraph (a) above.

2nd Instalment: An amount equivalent to five percent (5%) of the Contract Price stated in the Letter of Acceptance (rounded off to the Lower Ten thousand) after expiry of twelve (12) weeks of the payment of 1st instalment, subject to the Employer/ Engineer being satisfied that the Contractor has,

- (i) established site offices,
- (ii) Initiated action for procurement of materials and
- (iii) Has mobilised Contractor's equipment and has commenced the work.

(c) The Advance Payment shall be repaid in twelve (12) equal instalments commencing from the Interim Payment immediately following the payment of Advance under 2nd instalment and through each subsequent interim payments.

30. Claim, dispute and Arbitration (Arbitration applicable for works costing more than Rs.5.0 Cr)

Following procedure will be adopted for settlement of Claims, Disputes etc.

30.1 Engineer's Decision:

If a dispute of any kind whatsoever arise 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, with a copy of the other party. Such reference shall state that it is made pursuant to this clause. No later than the eighty-fourth 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 eighty – fourth 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 84 days expired, 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 or the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to Sub-Clause 30.4, 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.

30.2 Amicable Settlement:

Where notice of intention to commence arbitration as to a dispute has been given in accordance with Sub-Clause 30.1, the parties shall attempt to settle such dispute amicably before the commencement of arbitration. Provided that, unless the parties otherwise agree, arbitration may be commenced on or after the Fifty-Sixth (56) day after the day on which notice of intention to commence arbitration of such dispute was given, even if no attempt at amicable settlement thereof has been made.

30.3 Arbitration:

Any dispute in respect of which:

- (a) the decision, if any, of the Engineer has not become final and binding pursuant to Sub-Clause 30.1, and
- (b) Amicable settlement has not been reached within the period stated in Sub Clause 30.2.

shall be finally settled, unless otherwise specified in the contract, under the Government of India's Arbitration and Conciliation Act, 1996 by one or more arbitrators appointed under such act. The said arbitrator(s) shall have full powers to open up, review and revise any decision, opinion or instruction or determination, certificate or valuation of the Engineer related to the dispute.

Neither party shall be limited in the proceedings before such arbitrator/s to the evidence nor did arguments put before the Engineer for the purpose of obtaining his said decision pursuant to Sub-Clause 30.1. No such decision shall disqualify the arbitrator/s on any matter whatsoever relevant to the dispute.

Arbitration may be commenced prior to or after completion of the works, provided that the obligation 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.

The work under the contract shall, however, continue during the arbitration proceedings and no payment due or payable to the contractor shall be withheld on account of such proceedings. The arbitrators shall be deemed to have entered on the reference on the dates they issue notice to both the parties fixing the date of their first hearing. The venue of arbitration shall be Mumbai, India. The fees, if any, of the Arbitrator(s) if required to be paid before award in respect of disputes is made and published, shall be paid half by each of the parties.

30.4. Failure to comply with Engineer's decision:

Where neither the Employer nor the contractor has given notice of intention to commence arbitration of a dispute within the period stated in Sub-Clause 30.1 and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration in accordance with Sub-Clause

30.3. The provisions of sub-clause 30.1 and 30.2 shall not apply to any such reference.

30.5 Progress of work not be interrupted

The Contractor must at all times fulfill his 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 last preceding clause. 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 his part and render him liable to actions under the provisions of Clause 32.

30.6 Venue of Arbitration Proceedings

The venue of arbitration proceedings will be Mumbai.

30.7 Fees and Expenses

The fees and expenses of the arbitrator and all other expenses of the arbitration shall be initially borne and paid by the respective parties subject to determination by the arbitrator. The fees of the third arbitrator, if applicable, are to be equally borne by both the parties. The arbitrator may provide in the arbitral award for the reimbursement to the prevailing party or the defending party, as the case may be, of its cost and expensed in bringing or defending arbitration claim, including legal fees and expenses incurred by the party.

30.8 Provided always as follows:

30.8.1 Nothing of the provisions in clause no. 30.1 to 30.7 herein above would apply in the case of contracts where tendered amount appearing in the letter of acceptance of the tender / offer is less than Rs.5,00,00,000/- (Rs. Five Crore). In such cases the decision of the Chief Engineer shall be final with an appealing authority as Chairman of the Port. The decision of the Chairman shall be binding upon the Contractor.

30.8.2 The Contractor shall have to raise disputes or differences of any kind whatsoever in relation to the execution of the work to the Engineer within 30 days from the date of occurrence of the cause of dispute and before the preparation of the final bill, giving detailed justifications, in the context of contract conditions.

30.8.3 Contractor's dispute, if any, arising only during the maintenance period stipulated in the contract, must be submitted to the Engineer, with detailed justifications in the context of contract Conditions, before the final completion of the work. No dispute or difference on any matter whatsoever, pertaining to the contract can be raised by the contractor after the completion of the work.

30.8.4 Contractor's claim / dispute raised beyond the time limits prescribed in Clauses 30.8.2 and 30.8.3 shall not be entertained by the Engineer and / or by any Arbitrator, subsequently.

30.8.5 The Chairman / Employer shall have the right to alter the panel of Arbitrators on their sole discretion, by adding the names of new Arbitrators and / or by deleting the names of existing Arbitrators, without any reference to the Contractor.

31. Space for material storage, Labour Camp & Residential Accommodation

31.1 Residential Accommodation (Not applicable to this tender)

With the approval of the Chief Engineer, based on work requirement and availability of vacant quarters on specific request from the contractor, vacant MBPA residential units can be allotted to the contractor's staff. Monthly rent for Class IV unit (For Workers) will be Rs10,000/- and for Class III unit (For Supervisory staff) will be Rs15,000/-.Maximum 5 persons will be allowed per unit. Electrical charges of such accommodation shall be as per MEED's tariff which shall be deducted from contractor's dues. Residential units can be made available on as is where is basis.

31.2 Space for Material storage/ labour camp

With the approval of Chief Engineer, contractor will be allowed to use MBPA vacant plot up to 200 Sq. M. area for labour camp and or material storage free of cost provided such vacant plot is available for the purpose. Period of occupation of such plot shall be contractual / extended completion period. Contractor shall be liable to pay penalty of Rs. 5000/- per day if he fails to vacate the MBPA plot within 10 days after contractual completion date. If it is found that the plot is occupied by the contractor after completion of 40 days of contractual completion, the same will be vacated by MBPA authority at the risk and cost of the contractor and such contractor will not be considered for vacant plot facility in future works.

The Contractor will not be permitted to establish his labour camp and residential accommodation for his staff in Custom notified area.

32. TERMINATION

32.1 Termination for Default

- (a) The Employer, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor, may terminate the Contract in whole or in part:
- a. if the Contractor fails to execute the works or deliver any or all of the material within the period specified in the Contract, or within any extension thereof granted by the Employer pursuant to Clause 9.6;
 - b. if the Contractor fails to perform any other obligation under the Contract; or
 - c. if the Contractor, in the judgment of the Employer has engaged in fraud and corruption, as defined in Clause 33, in competing for or in executing the Contract.
- (b) In the event the Employer terminates the Contract in whole or in part, pursuant to Clause 32.1(a), the Employer may execute or procure, upon such terms and in such manner as it deems appropriate, material or works or related services similar to those undelivered or not performed, and the

Contractor shall be liable to the Employer for any additional costs for such similar material or works or related services. However, the Contractor shall continue performance of the part of the Contract which is not terminated.

32.2 Termination for Insolvency.

The Employer may at any time terminate the Contract by giving notice to the Contractor if the Contractor becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Contractor, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Employer

32.3 Termination for Convenience.

- (a) The Employer, by notice sent to the Contractor, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Employer's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The material or works or related services that are complete and ready for shipment / execution within twenty-eight (28) days after the Contractor's receipt of notice of termination shall be accepted by the Employer at the Contract terms and prices. For the remaining material or works or related services, the Employer may elect:
 - a. to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Contractor an agreed amount for partially completed material or works or related services and for materials and parts previously procured by the Contractor .

32.4 Liquidation and Re-Entry:

In the event of the Contractor going into liquidation or passing an effective resolution for winding up or upon the Contractor becoming bankrupt or making an arrangement with or assigning in favour of his creditors or upon his assigning this Contract or upon an execution having been levied on the Contractor's goods or upon the Engineer certifying under his hand to the Contractor that in his opinion the Contractor.

- i) has abandoned the Contract, or
- ii) has suspended the progress of the Works for seven days after receiving from the Engineer written notice to proceed without any lawful excuse under these conditions, or
- iii) has failed to make proper progress with the Works for seven days after receiving from the Engineer written notice to employ more men, and/ or items of Plant equipment and/ or materials, or
- iv) has failed to remove materials from the site or re-execute work seven days after receiving from the Engineer written notice that the said materials or Works were rejected by the Engineer, or
- v) has failed to give the Employer or the Engineer proper facilities for inspecting the Works or any part of them for three days after receiving from the Employer or the Engineer written notice demanding the same, or

- vi) has failed to complete all or any part of the Work by the time or extended time for completion, or
- vii) has failed to submit any work or material to proper tests for three days after receiving a written notice from the Engineer requiring the same, or
- viii) has failed to give proper account of the materials issued to him, or
- ix) has removed from the Site without the Engineer's written permission any plant or material brought to the site, or
- x) has committed repeated breaches of any of the conditions of the contract or Specifications for the materials and workmanship, or
- xi) has failed to complete the work within twenty five percent (25%) of the contracted completion period over the completion period as stipulated under Clause No. 9.5 herein above.

then the Employer after giving fourteen (14) days' notice in writing to the Contractor, may enter upon the site and the Works and expel the Contractor therefrom and may use the materials and plant upon the premises for completion of the Work and employ any other Contractor to complete or may himself complete the Works and upon such entry the Contract shall be determined save as to the rights and powers conferred upon the Employer and the Engineer hereby. The Engineer's Certificate under this clause shall be conclusive proof as between the Contractor and the Employer of the statements contained therein.

33. Corrupt or Fraudulent Practices

The Employer requires that Tenderers/Suppliers/Contractors under this contract, observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Employer:

- (a) defines, for the purpose of these provisions, the terms set forth below as follows:
 - a. "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - b. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
- (b) will reject a proposal for award of work if he determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- (c) Will declare a Tenderer ineligible, either indefinitely or for a stated period of time, to be awarded a contract/contracts if he at any time determines that the Tenderer has engaged in corrupt or fraudulent practices in competing for, or in executing, the contract.

- (d) Submission of fraudulent documents will be treated as major violation of the tender procedure and in such cases the EMD/BG of the bidder shall be forfeited, apart from blacklisting the firm for the next 3years.

34. ADVERTISEMENT

Without the written permission of the Employer, the contractor shall not advertise in newspaper and/or in electronic media and/or shall not display on any hoarding, fencing, building etc. in connection with this contract.

35. MANAGEMENT MEETINGS

The Engineer or the contractor may require the other to attend the management meeting to review the plans for remaining work and to deal with matters revised in accordance with early warning procedure.

The Engineer shall record the Business of Management meetings and is to provide copies of record to those attending the meeting. The responsibilities of the parties for actions to be taken are to be decided by the Engineer.

36. Third Party Inspection: (Not applicable to this tender. Refer Clause No 11 of SCC)

An External Independent agency has been appointed by MBPA for the Third Party inspection of the works covered under this contract. Third party inspection shall be carried out along with the representative of MBPA and the Contractor's representative at regular intervals and inspection reports will be submitted to MBPA for compliance which will be binding on the contractor for compliance. Third Party Inspection will be at MBPA's cost.

The Third Party Consultant shall inspect at least once in 15 days i.e. twice during the month and shall submit the Inspection Reports including suggestions for improvement of quality of work, if / wherever necessary.

The Third Party Consultant will assist Mumbai Port Authority for cross verify the quality of the work, by carrying out inspection, quality of materials, testing, quality audit, verification of site records regarding quality of materials and its certification and any other means required in this connection.

The Third Party Consultant will deploy required experienced Technical Personnel on the site for TPI & QA to ensure that quality of the work is maintained as per provision of relevant IS codes and specifications of work as well as completing inspections for the subject work for all buildings.

The Third Party Consultant will suggest various measures for achieving required quality in the work which will be binding on the contractor. To sort out all problem regarding quality of work, during the course of execution and to give proper suggestions which will be binding on the contractor.

The contractor shall assist / cooperate with the Third Party Consultant in Reporting, Documentation, testing of materials, Quality certification etc. for the subject work.

The contractor shall make all necessary infrastructure facilities for Quality Assurance Tests.

37. Access to Jawahar Dweep and Pirpau (Not applicable to this tender. Refer clause no 14 of SCC)

It is Contractors responsibility to provide Transportation of Manpower/ Material to and fro site, completely at Contractors risk and cost. For restricted areas like Pir Pau and Jawahar Dweep, the access to the site will be from Security Gates. The Contractor shall arrange to obtain from time to time the necessary temporary stream passes / Dock Entry Permits for himself and his workmen from the Police Authorities/ MBPA's Deputy Conservator / Dock Master, Jawahar Dweep / Security / CISF/ as may be applicable for which the Engineer's Representative will issue recommendatory letter to the Dy. Conservator, Dock Master, J.D. / Police Authorities/ MBPA Security / CISF upon being requested by the Contractor to do so. The Contractor shall comply with the customs and police formalities. When the Entry Permits are issued to the Contractor in favour of a group of persons, the group shall wear distinctive cotton arm bands for proper identification. The contractor's working staff not exceeding TEN persons with 100 kgs. of materials shall be allowed free of cost to travel on MBPA launches on normal trips in morning and evening to and fro Jawahar Dweep subject to the availability of the accommodation in the launch plying during that time. No special launch shall be arranged for the working staff of the contractor.

**Chief Engineer
Mumbai Port Authority**

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGALL HOUSE GARDEN,
COLABA, GWSD.”**

Special Conditions of Contract (SCC)

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC) and other provisions of contract. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

1. Further to clause no 24.1 of GCC vehicle shall not be provided by the successful bidder for this tender.
2. Further to clause no 2.2 of Eligibility criteria of Tender Notice, **Joint venture is not allowed** for this tender.
3. Further to clause no 2.5 of Instructions for Preparation and Submission of Tender, MBPA registered contractors can not avail PEMD facility for this tender. They have to pay EMD as per tender provision
4. **Completion period**
Further to provisions of clause no. 7 of Tender Notice and clause no 9.5 of GCC, Completion period for the works covered under this tender is **Four months** Excluding Monsoon. The completion period will commence from the date of release of site.
5. **Liquidated damages:**
The Liquidated Damages for delay to complete the work covered under this contract shall be 1/2 % (0.5%) of the contract price for delay of each week or part thereof in completion of work subject to a maximum ceiling of 10% of the contract price.
6. Further to provisions of clause no 6.11 of GCC, Contractor shall take out workmen compensation policy for minimum 19 Labours for his contract and Contractors all risk policy shall cover
 - a. Material Damage- 70% of contracted cost.
 - b. Third Party liability- Rs. 25 Lakhs for any one person.
 - c. All other routine benefits covered by All Risk Policy (ARP).
7. Further to provisions of clause no 10.2 of GCC, defect liability period for the works covered in this contract is one year from the date of completion of entire work.
8. Further to provisions of clause no 14 of GCC, Price Variation clause is not applicable to this tender.
9. Further to provisions of clause no 24.2 of GCC, contractor shall not provide site office

for MBPA engineers.

10. Further to provisions of clause no 29 of GCC, mobilisation advance is not payable under this contract.
11. Further to provisions of clause no 36 of GCC, works will not be inspected by third party.
12. Further to provisions of clause no 9.9 of GCC, substantial completion is not applicable to this tender
13. Further to provisions of clause no 9.9.4 of GCC, Bonus clause is not applicable to this tender.
14. Further to provisions of clause no 37 of GCC, access to Jawahar Dweep and Pirpau shall not be allowed under this contract.

**Chief Engineer
Mumbai Port Authority**

Letter of Application
(On the Letter Head of the Bidder)

To:
The Chief Engineer,
Mumbai Port Authority,
Shoorji Vallabhdas Marg,
Mumbai- 400 001.

Sub: **Tender No.E- 71/2023**
**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN,
COLABA, GWSD”**

SIR,

1. We hereby request to be qualified with the Mumbai Port Authority as a Tenderer for the subject work under Tender No. 71/2023.
2. We authorize Mumbai Port Authority or its authorized representatives to conduct any investigations to verify the statements, documents and information submitted and to clarify the financial and technical aspects of this application. For this purpose, we hereby authorize (any public official, engineer, bank, depository, manufacturer, distributor. etc.) or any other person or firm to furnish pertinent information deemed necessary and requested by Mumbai Port Authority to verify statements and information provided in this application or regarding our competence and standing.
3. The names and positions of persons who may be contacted for further information, if required, are as follows:
Name : _____
Designation : _____
Telephone : _____
E-mail id : _____
4. We declare that the statements made and the information provided in the duly completed application are complete, true and correct in every detail. On verification at any time in the future if it is found that information furnished with this application and statements made therein are not true, incomplete or incorrect, we hereby authorize Mumbai Port Authority to reject our application.
5. We agree for unconditional acceptance of all the terms and conditions set out in the bid document and also agree to abide by this bid response within the validity period of the subject tender.
6. I/We understand that Mumbai Port Authority reserves the right to reject any application without assigning any reason thereof.
7. It is hereby confirmed that I/We are entitled to act on behalf of our corporation/company/ firm/organization and empowered to sign this document as well as such other documents, which may be required in this connection.

Dated this _____ Day of _____ 2023

(Signature) (In the capacity of)
Duly authorized to sign the Bid Response for and on behalf of:

(Name and Address of Company) Seal/Stamp of bidder

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”

Undertaking by the Tenderer

To,

The Board of Mumbai Port Authority.

- 1) I/We, M/s. _____ have gone through the tender document carefully and hereby confirm as under.
- 2) The tender documents as described in the Tender Notice and elsewhere in the tender document for the work of **Tender No.E.71/2023** sealed as described **without** any defacement, addition, alternation or interpolation. All such addition or alteration has been indicated separately in our tender covering letter with all the relevant Annexures and Preforms duly filled in.
- 3) I/We have submitted our tender with Earnest Money Deposit as described in the Tender Notice’.
- 4) I/We have not indicated anywhere in the first cover, the amount of our price bid of work.
- 5) I/We have not made any counter stipulation and conditions and I/We agree that in the event of any such counter conditions my/our tender will be summarily rejected and such offer will not be evaluated and considered at all by you.
- 6) I/We hereby declare that, we have not been black listed / debarred in any of the institute/organisations I / We do hereby declare that we have not been blacklisted / debarred by any Central / state government department or public sector undertaking from taking part in the tendering process.
- 7) I/We hereby declare that, all information furnished by me/us with this tender is true to the best of my/our knowledge, belief and in case, if it is found that, the information furnished is not true or partially true or incorrect, I/We agree that my/our tender shall be summarily rejected without prejudice to the right of the Board of Trustees of Port of Mumbai to take further action into the matter.
- 8) I/We have not made any payment or illegal gratification to any person/ authority connected with the bid process so as to influence the bid process and have not committed any offence under the PC Act in connection with the bid.

Witness's	:	Tenderer's	:
Signature		Signature	
Name	:	Name	:
Designation	:	Designation	:
Address	:	Address	:

Tel. No.	:	Tel. No.	:
Date	:	Date	:

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA,
GWSD.”**

Information to be furnished by the Tenderer

(Ref: Clause Nos. 2.3 of the Tender Notice)

1. Name of the Tenderer :

2. Registered Office Address :

3. Telephone Nos. :

4. Fax Nos. :

5. Signatory to the Tender :
(on whose name Power of Attorney has been issued)
Name :
Position held in the firm :
Mobile No. :

6. Permanent Income Tax Account :
No. (PAN) of the firm

7. Registration No. for GST on :
Works Contracts.

8. Experience of similar works executed by the tenderer (Ref. clause No. 2.1 of Tender Notice).

Name of Three similar works completed during last seven years ending 30.11.2023		Name of Two similar works completed during last seven years ending 30.11.2023		Name of One similar work completed during last seven years ending 30.11.2023
1)	O R	1)	O R	1)
2)		2)		
3)				

Note:-

- **1. Similar works" shall mean 'General Civil Engineering works related to Garden.**
- 2. Complete details of the above work to be furnished as per Annexure-5 for each work separately.**

9. List of other Documents to be furnished by the tenderer:
- i) Power of Attorney of signatory to Tender **(Notary attested copy) Certified/ attested copies of following documents**
 - ii) Names, Addresses & ages of partners and Deed of Partnership OR Memorandum and Articles of Association of the Company
 - iii) Latest Annual Report with Balance Sheet, Profit & Loss Account statement (Certified by Chartered Accountant)
 - iv) Copy of PAN card issued by Income Tax authorities.
 - v) Copy of TDS certificate from the previous employer or Form 26 AS of IT department as evidence to establish the work experience
 - vi) Copy of GST Registration

Tenderer's Signature :

Name :

Designation :

Address :

Tel. No. :

Date :

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA,
GWSD”**

Average Annual Financial Turn-over of the Tenderer

During Last Three Years Ending on 31.03.2023

(Ref: Clause 2 of the Tender Notice)

Financial Year	Financial Turnover Rs. in Lakhs
2020 -2021	
2021- 2022	
2022-2023	
Average Annual Turnover =	

**Note : Seal and Signature of Chartered Accountant is must along with
Unique Document Identification Number**

(If this annx. is submitted duly certified/signed by CA then Latest Annual Report with
Balance Sheet, Profit & Loss Account statement need not be submitted)

Chartered Accountant's Signature	:		Tenderer's Signature	:	
Name	:		Name	:	
Designation	:		Designation	:	
Address	:		Address	:	

Membership No.	:		Tel. No.	:	
Tel. No.	:		Date	:	
Date	:				

Mumbai Port Authority
Civil Engineering Department

Tender No.E-71/2023

**“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN,
COLABA, GWSD.”**

Experience of ‘Similar Works’ executed by the Tenderer

(Ref: Clause No. 2 of ‘Tender Notice’)

1. Name of work :
2. Name & Address of the Employer :
3. Name of Contact Person of Employer :
4. Telephone Nos. :
5. Location of work site :
6. Scope of works carried out :
7. Contract Value :
8. Actual Value of work executed by Tenderer :
9. Actual Start Date of work: :
10. Schedule Completion Date of work: :
11. Actual Completion Date of work: :
12. Delay in completion of work with reasons. :

Note: Tenderers shall fill the above proforma separately for each work. The tenderer has to enclose the employer's certificates to confirm satisfactory performance.

Tenderer's Signature :

Name :

Designation :

Address :

Tel. No. :

Date :

ELECTRONIC CLEARING SERVICE MANDATE FORM

To:

From:

(Firm's Name & Address)

(Name of Department) Mumbai Port Authority

Sub: Payment through NEFT/RTGS/ECS system

Ref: Tender No. _____

Kindly arrange the payment of our bills/EMD through NEFT/RTGS/ECS system.

The details of our bankers are as under:

1. MBPA Registration No./Tender No./ Party's Bill No. or any other reference in terms of which payment is due : _____
2. Bank's Name : _____
3. Bank's Address & Telephone Number : _____
4. 9 digit MICR Code No. of the Bank Branch : _____
5. IFSC Code : _____
6. Type of Account (Saving/Current/Cash Credit) : _____
7. Ledger Folio No. : _____
8. Account No. alongwith proof (photocopy of blank CANCELLED cheque) : _____
9. Permanent Account Number : _____
10. Mobile Number : _____
11. Landline No. : _____

I/We hereby declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all due to reasons of incomplete or incorrect information, I/We would not hold the Mumbai Port Authority responsible.

Date :

AUTHORISED SIGNATORY
COMPANY SEAL AND STAMP

Certified that the particulars furnished above are correct as per our records.

Bank's Stamp

Date :

Signature of the Authorised
Official of the Bank

INTEGRITY PACT

BETWEEN

**MUMBAI PORT AUTHORITY (MbPA) hereinafter referred to as "The Principal"
AND**

.....hereinafter referred to as **"The Bidder/Contractor"**

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for **Tender No. E- 71/2023 "CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD."**

The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources, and of fairness / transparency in its relations with its Bidder(s) and /or Contractor(s).

In order to achieve these goals, the principal will appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principal mentioned above.

Section 1 - Commitments of the Principal.

- (1)** The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
 - (a) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - (b) The Principal will, during the tender process, treat all BIDDERS with equity and reason. The principal will in particular, before and during the tender process, provide to all bidder(s) the same information and will not provide to any bidder(s) confidential/ additional information through which the bidder(s) could obtain an advantage in the relation to the process or the contract execution.
 - (c) The Principal will exclude from the process all known prejudiced persons.
- (2)** If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

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

- (1)** The Bidder (s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 - a. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender

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

- b. The Bidder(s) /Contractor(s) will not enter with other Bidders in to any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids, or any other actions to restrict competitiveness, or to introduce cartelization in the bidding process.
 - c. The Bidder(s)/Contractor(s) will not commit any offence, under the relevant IPC/PC Act; further the Bidder(s)/Contractor(s) will not use improperly, for purposes of competition, or personal gain, or pass on to others, any information or document provided by the Principal, as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d. The bidder(s)/contractor(s) of foreign origin shall disclose the name and address of the agents / representatives in India if any. Similarly, the bidder(s)/contractor(s) of Indian Nationality shall furnish the name and address of the foreign principle if any. Further details as mentioned in the “Guidelines on Indian agents of Foreign Suppliers” shall be disclosed by the Bidder(s)/ Contractor(s). Further, as mentioned in the guidelines all the payments made to the Indian agents/ representative have to be in Indian rupees only. Copy of the “Guidelines on Indian agents of Foreign Suppliers “as Annexed and marked as Annex- “A”.
 - e. The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries, in connection with the award of the contract.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

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

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression, through a violation of Section-2, above or in any other form, such as to put his reliability or credibility in question, the principal is entitled to disqualify the Bidder(s)/ contractor(s), from the tender process, or take action as per the procedure mentioned in the “Guidelines on Banning of Business dealings”. Copy of the “Guidelines on Banning of Business dealings” is annexed and marked as Annexure “B”.

Section-4 Compensation for damages.

1. If the Principal has disqualified the Bidder(s), from the tender process prior to the award, according to Section-3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
2. If the Principal has terminated the contract according to Section-3, or if the Principal is entitled to terminate the contract according to Section-3, the Principal shall be entitled to demand and recover from the Contractor, liquidated damages of the contract value, or the amount equivalent to Performance Bank Guarantee.

Section-5 Previous transgression

1. The Bidder declares that, no previous transgressions occurred in the last 3 years, with any other company, in any country, confirming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process for action can be taken as per the procedure mentioned in “Guidelines on Banning of Business dealings”.

Section-6 Equal treatment of all Bidders/Contractors/Subcontractors

1. The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors, a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
2. The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and Subcontractors.
3. The Principal will disqualify from the tender process all Bidders, who do not sign this pact or violates its provisions.

Section-7 Criminal charges against violation Bidder(s)/Contractor(s)/Sub-contractor(s)

If the principal obtains knowledge of conduct of a Bidder/Contractor or Subcontractor, or of an employee, or a representative, or an associate of a Bidder, Contractor, or Subcontractor, which constitutes corruption, or if the Principal has substantive suspicion, in this regard, the Principal will inform the same to the Chief Vigilance officer.

Section-8 Independent External Monitor/ Monitors

1. The principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor, is to review independently and objectively, whether and to what extent, the parties comply with the obligations under this agreement.
2. The Monitor is not subject to instructions, by the representative of the parties and performs his functions neutrally and independently. He reports to the Chairman, MBPA.
3. The Bidder(s)/Contractor(s) accepts that, the monitor has the right to access, without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access, to the project documentation. The same is applicable to Subcontractors. The monitor is under contractual obligation, to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) with confidentiality.

4. The Principal will provide to the Monitor, sufficient information about all meetings, among the parties related to the Project, provided such meetings could have an impact, on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
5. As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the management to discontinue, or take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties, that they act in a specific manner, refrain from action or tolerate action.
6. The Monitor will submit a written report, to the Chairman, MBPA within 8 to 10 weeks, from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
7. Monitor shall entitle to compensation on the same terms as being extended to / provided to Independent Directors on the MBPA Board.
8. If the Monitor has reported to Chairman, MBPA, a substantiate suspension of an offence, under relevant IPC/PC Act, and the Chairman, MBPA has not, within reasonable time, taken visible action to proceed against such offence, or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
9. The word 'Monitor' would include both singular and plural.

Section-9 - Pact Duration

This Pact begins when both parties have legally signed it. It expires for the contractor 10 months after the last payment under the contract, and for all other bidders & three months the contract has been awarded.

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

Section-10 Other Provisions

- This agreement is subject to Indian Law, Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Mumbai, Maharashtra.
- Changes and supplements as well as termination notices, need to be made in writing. Side agreements have not been made.
- If the Contractor is a partnership or a consortium, this agreement must be, signed by all partners or consortium members.
- Should one or several provisions of this agreement, turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement, to their original intentions.

.....
CHIEF ENGINEER
MUMBAI PORT AUTHORITY

(For & on behalf of the Principal)
Office seal

Witness-1: (for Principal)

.....
Dy.Chief Engineer,
Mumbai Port Authority

Place: Mumbai
Date:

.....
(For & On behalf of Bidder/ Contractor)
Office seal

Witness-2:(for Bidder/ Contractor)

.....
Name and Address

Place: _____
Date: _____

GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS

- 1.0 Valid Authorized Dealership Certificate from the Foreign Principal/O.E.M. should be submitted by the Indian Agent/Dealer and such firm's name shall be added to the Approved List of O.E.M. and Authorized Dealers.
- 2.0 Registered address of the foreign principal and their Indian Agent should appear in the Authorized Dealership Certificate.
 - i) The tenderer shall submit an undertaking along with their tender offer that they have not made any payment or illegal gratification to any person/authority connected with the tender process so as to influence the tender process and have not committed any offense under the Prevention of Corruption Act in connection with the tender.
 - ii) The tenderer shall disclose any payments made or proposed to be made to any intermediaries (agents etc.) in connection with the tender.
- 2.1 MBPA standard payment terms are as per mutually agreed INCO terms.
Agency Commission: MBPA does not agree to pay any agency commission either in Indian or in Foreign Currency.
- 2.2 Failure to furnish correct and detailed information as called for in paragraph 2.0 above may render the concerned tenderer's offer liable for rejection OR in the event of a contract materializing, the same may be liable for termination by MBPA. Besides, a penalty of payment of a named sum OR banning business dealings with MBPA may be levied.

GUIDELINES ON BANNING OF BUSINESS DEALINGS CONTENTS

Sr. No.	Description
1.	Introduction
2.	Scope
3.	Definitions
4.	Initiation of banning / suspension
5.	Suspension of business dealings
6.	Ground on which banning of business dealing can be initiated
7.	Banning of business dealings
8.	Removal from list of approved agencies – Suppliers/ contractors etc.
9.	Procedure for issuing Show cause notice
10.	Appeal against the decision of Competent Authority
11.	Review of the decision by the competent authority.
12.	Circulation of the names of agencies with whom business dealings have been banned.

1. Introduction

- 1.1 The Board of Mumbai Port Authority (The Board / MBPA), incorporated by The Major Port Trusts Act, 1963, as amended by Major Port Trusts (Amendment) Act, 1974 and is an authority within the meaning of article 12 of Constitution of India. MBPA has also to safeguard its commercial interests, MBPA deals with agencies, who have a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of MBPA to deal with Agencies who commit deception, fraud or other misconduct in the execution of contracts awarded / orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on MBPA to observe principles of natural justice before banning the business dealings with any Agency.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2. Scope

- 2.1 The General Condition of Contract (GCC) of MBPA generally provide that MBPA reserves the rights to remove from list of approved suppliers/ contractors or to ban business dealings if any Agency has been found to have committed misconduct and also to suspend business dealings pending investigation.
- 2.2 Similarly, in case of sale of material there is a clause to deal with the Agencies / customers / buyers who indulge in lifting of material in unauthorized manner.

- 2.3 However, absence of such a clause does not in any way restrict the right of MBPA to take action / decision under these guidelines in appropriate cases.
- 2.4 The procedure of (i) Removal of Agency from the List of approved suppliers / contractors (ii) Suspension and (iii) Banning of Business Dealing with Agencies has been laid down in these guidelines.
- 2.5 These guidelines apply to all departments of MBPA.
- 2.6 It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular Agency due to its prior / inadequate performances or for any other reason.
- 2.7 The banning shall be with prospective effect, i.e. future business dealings.

3. Definitions

In these Guidelines, unless the context otherwise requires

- (i) Party/ Contractor/ Supplier/ Purchaser/ Customer shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, a co-operative society or an association or a group of persons engaged in any commerce, trade, industry etc. Party/ Contractor / Supplier/ Purchaser / Customer in the context of those guidelines is indicated as ‘Agency’
- (ii) ‘Inter-connected Agency’ shall mean two or more companies having any of the following features:
 - (a) If one is a subsidiary of the other.
 - (b) If the Director(s), Partner(s), Manager(s) or Representative(s) are common.
 - (c) If management is common.
 - (d) If one owns or controls the other in any manner.
- (iii) ‘Competent Authority’ and ‘Appellate Authority’ shall mean the following:
 - a) For MbPA Banning
The Head of the Department shall be “Competent Authority” for the purpose of these guidelines. Chairman, MBPA shall be ‘Appellate Authority’ in respect of such cases except banning of business dealings with Foreign Suppliers of imported material.
 - b) For banning of business dealings with Foreign Suppliers of imported material, MBPA’s HOD Committee (MHC) shall be the ‘Competent Authority’. The Appeal against the Order passed by MHC shall lie with Chairman as First Appellate Authority.
 - c) In case the foreign supplier is not satisfied by the decision of the First Appellate Authority, it may approach Chairman as Second Appellate Authority.
 - d) MBPA Board shall have overall power to take *suo-moto* action on any information available or received by him and pass such order(s) as he may think appropriate, including modifying the order(s) passed by any authority under these guidelines.
- iv) ‘Investigating Department’ shall mean any Department Investigating into the conduct of the Agency and shall include the Vigilance Department, Central

Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.

- v) List of approved Agencies – Parties / Contractors / Suppliers/ Purchasers/ Customers shall mean and include list of approved registered Agencies – Parties/ Contractors / Suppliers / Purchasers / Customers etc.

4. Initiation of Banning / Suspension

Action for banning/ suspension business dealing with any Agency should be initiated by the department having business dealing with them after noticing the irregularities or misconduct on their part. Besides any department, Vigilance Department may also be competent to initiate such action.

5. Suspension of Business Dealings

- 5.1 If the conduct of any Agency dealing with MBPA is under investigation by any department (except Foreign Supplier of imported material), the Competent Authority may consider whether the allegations under investigation are of a serious nature and whether pending investigation, it would be advisable to continue business dealings with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order to this effect may indicate a brief of the charges under investigation. It is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the some should be specifically stated in the order. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Department. The Investigating Department may ensure that their investigation is completed and whole process of final order is over within such period.
- 5.2. The order of suspension shall be communicated to all Departmental Heads. During the period of suspension, no business dealing may be held with the Agency.
- 5.3 As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regards to the circumstances of the case, decided otherwise.
- 5.4 If the gravity of the misconduct under investigation is very serious and it would not be in the interest of MBPA, as a whole, to deal with such an Agency pending investigation, the competent Authority may send his

Recommendations to Chief Vigilance Officer (CVO), MBPA Head of Department (HOD) along with the material available. If HOD considers that depending upon the gravity of the misconduct, it would not be desirable to have any dealings with the Agency concerned an order suspending business dealing may be issued by the Competent Authority, copy of which may be endorsed to the Agency concerned. Such an order would operate for a period of six months from the date of issue.

- 5.5 For suspension of business dealing with foreign suppliers of imported material, following shall the procedure.
 - i) Suspension of the foreign suppliers shall apply throughout MBPA.

ii) Based on the complaint forwarded or received directly by Vigilance Department, if Gravity of the misconduct under investigation is found serious and it is felt that it would not be in the interest of MBPA to continue to deal with such Agency pending investigations. Vigilance Dept. may send such recommendation on the matter to HOD to place before MHC consisting of the following:

1. Head of Finance Department.
2. Head of Executing Department.
3. Head of User Department.
4. Head of Legal Department.

The Committee shall expeditiously examine the report, give its comments/recommendations within twenty-one days of receipt of the reference by HOD.

iii) If MHC opines that it is a fit case for suspension, MHC may pass necessary orders which shall be communicated to the foreign supplier by HOD.

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

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

6 Ground on which Banning of Business Dealing can be initiated

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

6.2 If the Director / Owner of the Agency, Proprietor or partner of the firm is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealing with the Government or any other public sector enterprises or MBPA, during the last five years.

6.3 If there is strong justification for believing that the Directors Proprietors, Partners, owner of the Agency have been guilty of malpractices such bribery, corruption, fraud, substitution of tenders, interpolations, etc.

6.4 If the Agency continuously refuses to return/ refund/ the dues of MBPA without showing adequate reason and this is not due to any reasonable dispute which attract proceeding in arbitration of Court of Law.

6.5 If the Agency employs a public servant dismissed / removed or employs person convicted for an offence involving corruption or abetment of such offences.

6.6 If business dealing with the Agency have been banned by the Govt. or any other public sector enterprises.

- 6.7 If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts.
- 6.8 If the Agency uses intimidation / threatening or brings under outside pressure on MBPA or its Official in acceptance/ performances of the job under the contract.
- 6.9 If the Agency indulgence in repeated and / or deliberate use of delay tactics in complying with contractual stipulations.
- 6.10 willful indulgence by the Agency in Supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by MBPA or not.
- 6.11 Based on the findings of the investigation report of CBI/Police against the Agency for malafide/unlawful acts or improper conduct on his part in matters relating to MBPA or even otherwise;
- 6.12 Establishment litigant nature of the Agency to derive under benefit.
- 6.13 Continued poor performance of the Agency in several contracts.
- 6.14 If the Agency misuses the premises of facilities of MBPA forcefully occupies tampers or damages the properties including land, water resources forests/ trees, etc.

(Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

7. **Banning of Business Dealings.**

- 7.1 Normally, a decision to ban business dealings with any Agency should apply throughout the MBPA. However, the Competent Authority can impose such ban if in the particular case banning of business dealings will serve the purpose and achieve its objective and banning throughout the MBPA is not required in view of the local conditions and impact of the misconduct/ default. Any ban imposed shall be applicable across the MbPA.
- 7.2 For banning, the proposal should be sent by Head of Executing Department to the CVO setting out the facts of the case and the justification of the action proposed alongwith all the relevant papers and documents except for banning of business dealings with foreign suppliers of imported material.
The Vigilance Department shall process the proposal for a prima-facie view in the matter by the Competent Authority nominated for MbPA-wide banning.
The CVO shall get feedback about that agency from the HOD, based on this feedback, a prima-facie, decision for banning/ or otherwise shall be taken by the Competent Authority.
If the prima-facie decision for banning has been taken, the Vigilance Department shall issue a show-cause notice to the agency conveying why it should not be banned throughout MbPA. After considering the reply of the Agency and other circumstances and facts of the case, a final decision for banning shall be taken by the Competent Authority.
- 7.3 There will be a Standing Committee to be appointed by HOD for processing the cases of Banning of Business Dealings except for banning of business dealings with foreign suppliers. However, for procurement of items/ award of contracts, to meet the requirement of Department, the committee shall be consisting of HOD from Executing, Finance, Law & User Department. Member from Executing

Department shall be the convener of the Committee. The functions of the Committee shall, inter-alia include.

- i) To study the report of the investigating Agency and decide if a prima-facie case for MbPA-wide / Local unit, wise banning exists, if not, send back the case to the Competent Authority.
- ii) To recommend for issue of show cause notice to the Agency by the concerned department.
- iii) To examine the reply to show cause notice and call the Agency for personal hearing if required.
- iv) To submit final recommendation to the Competent Authority for banning or otherwise.

7.4 If the Competent Authority is prime-facie of view that action for banning business dealings with the Agency is called for, a show cause notice may be issued to the Agency as per paragraph 9.1 and an enquiry held accordingly.

7.5 Procedure for Banning of Business Dealings with Foreign supplier of imported material.

- i) Banning of the agencies shall apply throughout the MBPA including subsidiaries.
- ii) Based on the complaint forwarded by HOD or received directly by Vigilance Department, an investigation shall be carried out by Vigilance Department. After investigation depending upon the gravity of the misconduct Vigilance Department may send their report to HOD to be placed before MHC consisting of the following: -

- (i) Head of Finance Department.
- (ii) Head of Executing Department.
- (iii) Head of User Department.
- (iv) Head of Legal Department.

The committee shall examine the report and give its comments/recommendations within 21 days of receipt of the reference by HOD.

- iii) If MHC opinion that it is a fit case for initiating banning action, it will direct HOD to issue show-cause notice to the agency for replying within a reasonable period.
- iv) On receipt of the reply or on expiry of the stipulated period, the case shall be submitted by HOD to MHC for consideration & decision.
- v) The decision of the MHC shall be communicated to the agency by HOD.

8. Removal from List of Approved Agencies- Suppliers/ Contractors, etc.

8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should not be removed from the list of approved Agencies- Suppliers/ Contractors, etc.

- 8.2 The effect of such an order would be that the Agency would not be disqualified from competing in Open Tender Enquiries but Limited Tender Enquiry may not be given to the Agency concerned.
- 8.3 Past performance of the Agency may be taken into account while processing for approval of the Competent Authority for awarding the contract.

9. Show-cause Notice

- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause, notice has to be issued to the Agency, Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defense.
- 9.2 If the Agency requested for inspection of any relevant document in possession of MBPA, necessary facility for inspection of documents may be provided.
- 9.3 The Competent Authority may consider and pass an appropriate speaking order.
 - a) For exonerating the Agency if the charges are not established.
 - b) For removing the Agency from the list of approved Suppliers/Contractors, etc.
 - c) For banning the business dealings with the Agency.
- 9.4 It is to ban business dealing, the period for which the ban would be operative may be mentioned. The order may also mention that the ban would extend to file interconnected Agencies of the Agency.

10. Appeal against the Decision of the Competent Authority

- 10.1 The Agency may file an appeal against the order of the Competent Authority banning business dealings, etc. The appeal shall lie to Appellate Authority. Such an appeal shall lie preferred within one month from the date of receipt of the order banning business dealing etc.
- 10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.

11. Review of the Decision by the Competent Authority

Any petition/ application filed by the Agency concerning the review of the banning order passed originally by HOD under the existing guidelines either before or after filing of appeal before the Appellate Authority or after disposal of appeal by the Appellate Authority, the review petition can be decided by the HOD upon disclosure of new facts/ circumstances or subsequent development necessitating such review. The Competent Authority may refer the same petition to the Standing Committee for examination and recommendation.

12. Circulation of the names of Agencies with whom Business dealings have been banned.

- 12.1 Depending upon gravity of misconduct established, the Competent Authority of the corporate office, may circulate the names of Agency with whom business

dealings have been banned, to the Government Departments, other Public Sector Enterprises, etc. for such action as they deem appropriate.

- 12.2 If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Inquiring Authority together with the copy of the order of the Competent Authority/ Appellate Authority may be supplied.
- 12.3 If Business dealings with any Agency have been banned by the Central of State Government of any other Public Sector Enterprises, MBPA may without any further enquiry or investigation issue an order banning dealing with the Agencies and its inter connected Agencies.

NON - DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT ("Agreement") made at Mumbai the _____, day of _____, 2023

By and between:

The Board of Mumbai Port Authority incorporated by Major Port Trust Act, 1963, as amended by Major Port Trust (Amendment) Act, 1974 having its Office at Port House/Vijaydeep, Soorji Vallabhdas Marg, Ballard Estate, Mumbai - 400001(hereinafter referred to as "PRINCIPAL") which expression shall unless repugnant to the context or meaning hereof, be deemed to include its successors and assigns of the First Part;

And

_____ (hereinafter referred to as "**Bidder/Contractor**") which term shall include its successors and assigns),of the Second Part.

(**PRINCIPAL and Bidder/Contractor** are individually referred to as a "Party" and collectively as "Parties")

WHEREAS:

1. **PRINCIPAL** is engaged in execution of Contract of Civil Engineering and related works of Mumbai Port Trust.
2. **BIDDER/CONTRACTOR** is engaged in implementation of Civil/ Labor intensive/ Housekeeping works at MbPT.
3. **PRINCIPAL** is desirous of execution of Civil/Labor intensive/Housekeeping works at MbPT from BIDDER/CONTRACTOR. In course of discussion, implementation and providing the Services, Parties will have access to the confidential and / or proprietary data / information of each other. In consideration thereof parties undertake to respect the confidentiality of this confidential information under the terms and conditions set out hereunder.
4. The party disclosing the confidential information is hereinafter referred to as the "Furnishing Party" and the party receiving the confidential information is hereinafter referred to as "**Recipient/Receiving Party**".

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY & BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. The proprietary and confidential information to be accessed by and received by the parties shall be subject to the terms and conditions set out herein below:

Any and all oral, written, electronic, graphic or machine – readable information including, but not limited to, that which relates to patents, patent applications, research, product plans, products, developments, inventions, processes, designs, drawings, engineering, formulae, markets, software (including source and object code), hardware configuration, computer programs, algorithms, business plans, agreements with third parties, services, customers, business, financial, and operational and any other information or data, or a combination of any of them accessed by or supplied to the "Receiving Party" by, or at the direction of the "Furnishing Party" including any copies, excerpts, notes, memoranda, summaries, analysis or compilations or a combination of two or more of these generated by the Receiving Party (collectively, the "Information"), will be treated as confidential as provided in this Agreement.

2. For purposes hereof, "Information" shall not include:

- (a) Information in the public domain at the time that it was provided by the Furnishing Party or which subsequently came into the public domain other than as a result of breach of this Agreement;
- (b) Information obtained from a third party who is authorized to do so;
- (c) Information independently developed by the Receiving Party without reference to the Information; or
- (d) Information in the possession of the Receiving Party prior to its disclosure by the Furnishing Party to the Receiving Party.

3. All Information:

- (a) Shall remain the property of the Furnishing Party;
- (b) shall be treated as confidential by the Receiving Party, and the Receiving Party shall take such action as shall be necessary or desirable to preserve and protect the confidentiality of

the Information and in any event using means not less than those used to protect its own confidential information;

(c) Shall be used solely for purposes as provided in this Agreement, and for no other purpose; and

(d) shall not be disclosed to any third party other than the Receiving Party and such of its officers, directors, employees, financial advisors, accountants or attorneys necessary on a "need to know" basis (each an "Authorized Person") without the Furnishing Party's prior written consent, and provided that each such employees/personnel/consultants has agreed to maintain the confidentiality of the Information in accordance with the terms hereof;

Provided however, that prior to disclosing the Information, the Receiving Party shall require each person who receives the Information to be cognizant of and to comply with the terms and conditions of this Agreement.

4. In the event that the Receiving Party or any of its Authorized Persons becomes legally compelled (including, without limitation, by law, rule, regulation or governmental regulatory or administrative or similar agency as part of a judicial or administrative proceeding including, without limitation, by deposition, interrogatory, request for information or documents, subpoena, civil or criminal investigative demand or otherwise) to disclose any of the Information, the Receiving Party shall provide the Furnishing Party with immediate written notice of such requirement so that the Furnishing Party may seek a protective order or other appropriate remedy or waive compliance with this paragraph. If Furnishing Party fails to obtain injunction or protective order and the Receiving Party provides information due to statute, regulation, Court directive or order of a statutory authority, Receiving Party shall not be held liable to the Furnishing Party for any loss or damage or otherwise.

5. The Receiving Party will only disclose the Information to the personnel / consultants of the Receiving party who have a need to know the Information for their work in connection with the Transaction, provided that each such employees/personnel/consultants has agreed to maintain the confidentiality of the Information in accordance with the terms hereof.

6. The Receiving Party recognizes that a breach of this Agreement may cause irreparable harm to the Furnishing Party and that actual damages may be difficult to ascertain and in any event may be inadequate. Accordingly, the Receiving Party agrees that in the event of such breach, the Furnishing Party may be entitled to injunctive relief in addition to such other legal including criminal prosecution for such breach or equitable remedies as may be available. Receiving party shall be responsible and liable to the Furnishing party for any unauthorized disclosure or any breach of the terms and conditions herein contained. Receiving party hereby indemnifies and agrees to keeps the Furnishing party saved, defended, harmless and indemnified from and against all costs, charges, expenses and damages whatsoever except exponential or consequential damages.

7. The Receiving Party will not use nor permit the use of the Furnishing Party's names, logos, trademarks or other identifying data, or otherwise discuss or make reference to the Furnishing Party, in any notices to third parties or in any press release or other public announcement or advertisement, however characterized, without the Furnishing Party's prior written consent.

8. This Agreement shall terminate on the earlier occurrence of (a) Parties entering into a definitive agreement for or (b) parties decide not to enter into business relation for the document management solutions services. Upon termination of this Agreement, the Receiving Party shall, as per the direction of the Furnishing Party either, return or destroy all Information, and no Information shall be stored by the Receiving Party in any form. Notwithstanding the return or destruction of the Information or the termination of this Agreement, the Receiving Party shall continue to be bound by its obligations of confidentiality hereunder for two (2) years from the date hereof.

9. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, and all prior agreements, understandings, writings, or negotiations, whether written or oral, are hereby superseded. No failure or delay by either party in exercising its rights hereunder shall operate as a waiver thereof. This Agreement may not be waived or amended except by written agreement of both parties.

10. If any provision of this Agreement is held to be invalid, void or unenforceable, all other provisions shall remain valid and be enforced and construed as if such invalid provision

were never a part of this Agreement.

11. The parties agree that any dispute, controversy or claim arising out of or relating to this Agreement or any related agreement or other document or the validity, interpretation, breach or termination thereof, including claims seeking redress or asserting rights under applicable law, shall, be governed by and interpreted in accordance with the laws of India and that any action in any way arising out of this Agreement shall be commenced in an appropriate court having jurisdiction in Mumbai. The prevailing party in any suit hereunder shall recover all related costs, expenses and reasonable legal fees

12. The parties warrant that the signatory signing the Agreement on behalf of the respective parties is duly authorized to do so and irrevocably bind the parties.

IN WITNESS WHEREOF,

BIDDER/CONTRACTOR _____

The duly constituted Attorney of and on behalf of **BIDDER/CONTRACTOR** has hereunto subscribed and set their hands and common seal of **BIDDER/CONTRACTOR** and the _____

Of the Board of the Mumbai Port Authority for and on behalf of the Board has set his hand seal and common seal of the Board hath has been hereunto affixed on the day and year first above written.

SIGNED, SEALED AND DELIVERED

By the above named

Shri _____

In presence of _____

SIGNED, SEALED AND DELIVERED

By the above named

Shri _____

For and on behalf of the Board of
Mumbai Port Authority in

The presence of _____

The Common seal of the Board

Of Mumbai Port Authority

Was affixed in the presence of

Shri _____

Secretary MBPA

APPENDIX-III

Format for Power of Attorney for signing of BID

(Refer Clause 2.1.8)

(To be executed on non-judicial stamp paper of Rs.500/-)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr./ Ms (name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Joint Venture and holding the position of , as our true and lawful attorney (hereinafter referred to as the –Attorney) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our BID for the Project **“CREATION OF MARINE THEME MURAL AT DOUGAL HOUSE GARDEN, COLABA, GWSD.”**

on EPC basis (hereinafter referred to as –the Project) by MBPT (the –Employer) including but not limited to signing and submission of all applications, BIDs and other documents and writings, participate in Pre-BID and other conferences and providing information/ responses to the Employer, representing us in all matters before the Employer, signing and execution of all contracts including the agreement and undertakings consequent to acceptance of our BID, and generally dealing with the Employer in all matters in connection with or relating to or arising out of our BID for the said Project and/ or upon award thereof to us and/or until the entering into of the EPC Contract with the Employer.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For
(Signature, name, designation and address)
of person authorized by Board Resolution
(in case of Firm/ Company)/ partner in case of Partnership firm

Witnesses:

- 1.
- 2.

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

(Notarised)

Person identified by me/ personally appeared before me/

Attested/ Authenticated*
(*Notary to specify as applicable)
(Signature Name and Address of the Notary)

Seal of the Notary
Registration No. of the Notary
Date:.....

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

Ref: Clause No.6.1 of 'Conditions of Contract'
Generalised Draft of Contract Agreement

This Agreement made at Mumbai the _____ day of _____ 2023 between THE BOARD OF MUMBAI PORT AUTHORITY incorporated by Major Port Trust Act, 1963 as amended by Major Port Authority (Amendment) Act 2021 (hereinafter called "the Board" which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include the Board of Trustees of the Port of Mumbai its successors and assigns) of the ONE PART And

(Name of Proprietor) of Mumbai carrying on proprietary business in the firm name and style of _____ having his office at _____

(Name of Partners) all of Mumbai carrying on business in partnership in the firm name and style of _____ and having their/ his office at _____

(Name of Firm) a company registered under the Indian Companies Act, 1956 and having its registered office at _____ & having registered with the Income Tax Department of Govt. of India No. _____ (hereinafter called "the Contractor/s" which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include the person named his or her heirs executors and administrators and his or her permitted assigns) the person named the survivor or survivors of them, their respective executors, and administrators of such last survivors and their/ his or her assigns/ the company named its successors and permitted assigns) of the OTHER PART.

WHEREAS the Board invited tenders for the work of _____ AND

WHEREAS the Contractor/s submitted his/ their/ its quotations by his/ their/ its tender dated _____ which tender was subject to the terms and conditions as contained in his/their/ its letters referred to in the Schedule `A' hereto respectively and which tender subject to the said terms and conditions was accepted by the Board by the letter of (Designation of the HOD) bearing No. _____ dated _____ in respect of _____ only (part of the Schedule of Quantities and Rates to the said Tender)/*

AND WHEREAS THE contractors have/has deposited with the Board a sum of Rs. _____ (Rupees _____) only by way of _____ being Initial Security for the due performance of this contract

AND WHEREAS at the request of the Contractors, _____ (Name of Bank and Branch), Mumbai has given Bank Guarantee for Rs. _____ (Rupees _____) only towards further security for the due performance of this contract by the

Contractors.

Please strike out which is not required.

AND WHEREAS the contractor and the Board have further agreed that this agreement will remain in force even in case of any extension / renewal of the contract on the same terms and conditions and at the same rates accepted by the Board by the letter of its Chief Engineer dated _____ day of _____ 2023.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement the words and expressions shall have the same meanings as are respectively assigned to them in the General 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, viz.

FIRST COVER

(Separate Booklet)

- I. Tender Activity Sheet & Tender Information.
- II. Content of Tender document.
- III. Tender Notice.
- IV. Instructions for Online Bid submission.
- V. Instructions for Preparation and Submission of Tender.
- VI. General Conditions of Contract & SCC
- VII. Specifications
- VIII. Annexure '1 to 7'.
- VIII. Proforma I to IV

SECOND COVER

(Separate Booklet)

- i) Directions to Tenderer for filling in the Schedule of Quantities and Rates
 - ii) Schedule of Quantities and Rates
 - iii) Form of Tender.
3. In consideration of the payments to be made by the Board to the Contractor/s as hereinafter mentioned the Contractor/s DOTH / DO HEREBY CONVENANT with the Board to carry out and complete within the stipulated period (time being of the essence of this contract) the work of _____ and all other ancillary work as described in the Drawings, in accordance with the specifications and in conformity in all respects with the provisions of the Contract and to maintain/ guarantee the same as provided in the General Conditions of Contract/ Specifications (hereinafter collectively called "the Contract work").
4. The BOARD DOTH HEREBY CONVENANT to pay to the Contractor/s in consideration

of the Contractor/s carrying out and completing within the stipulated period (time bearing of the essence of this contract) the contract work to the entire satisfaction of the (Designation of HOD) of the Board in all respects the contract price at the time and in the manner prescribed by the Contract.

IN WITNESS WHEREOF _____, the Contractors _____ the duly Constituted Attorney of and for and on behalf of the Contractors has/ have hereunto subscribed and set his/ their hand and seal/s the Common Seal of the Contractors hath been hereunto affixed and the (Designation of HOD) of the Board of Trustees of the Port of Mumbai for and on behalf of the Board has set his hand and seal and the Common Seal of the Board hath been hereunto affixed the day and year first above written.

THE SCHEDULE 'X' ABOVE REFERRED TO
(The Schedule of letters)

(LETTERS FROM THE Contractor/S)
(LETTERS FROM THE CHIEF ENGINEER /ADDL. CHIEF ENGINEER OF THE BOARD TO THE Contractor)

SIGNED, SEALED AND DELIVERED BY
the above named _____
_____ for and on behalf of

Signature of Contractor

OR
SIGNED, SEALED AND DELIVERED
by the above named _____
_____ on behalf of themselves and for and on behalf of
_____ in the presence of _____

Signature of Contractors

OR
The Common Seal of _____
affixed pursuant to a resolution of the Board of
Directors dated the _____ day of 20
in the presence of _____

DIRECTOR

Directors of the said Company

SIGNED, SEALED AND DELIVERED BY

(Name & Designation of HOD)

for and on behalf of the Board of Mumbai Port Authority

in the presence of _____

(Designation of concerned
HOD)

The Common Seal of the Board of Mumbai Port Authority
was affixed in the presence of

Secretary
Mumbai Port Authority

Pre-requisites for execution of Contract Agreement:

Initial and Additional Security Deposits have been lodged by the Contractor.

Ref: Clause No.6.2 of 'Conditions of Contract'

Form of Bank Guarantee towards Security Deposit
Guarantee Bond

In consideration of **The Board of Mumbai Port Authority** incorporated by the Major Port Trust Act, 1963 as amended by Major Port Authority (Amendment) Act 1974 (hereinafter called "The Board" which expression shall unless excluded by or repugnant to the context or meaning thereof be deemed to include the Board of Mumbai Port Authority, its successors and assigns) having agreed to exempt _____ (Name of the Contractor) (hereinafter called the "contractors") from the demand under the terms and conditions of the contract vide the Board's Chief Engineer's letter No. _____ dated _____ made between the contractors and the Board for execution of the work of _____ covered under Tender No. _____ dated _____ (hereinafter called "the said contract") for the payment of Security Deposit in cash or lodgement of Government Promissory Loan Notes for the due fulfilment by the said Contractors of the terms and conditions of the said Contract, on production of a Bank Guarantee for Rs. _____ (Rupees _____) only, we the _____ (name of the Bank and address) (hereinafter referred to as "the Bank") at the request of the Contractors do hereby undertake to pay to the Board an amount not exceeding Rs. _____ (Rupees _____) only, against any loss or damage caused to or suffered or which would be caused to or suffered by the Board by reason of any breach by the Contractors of any of the terms and conditions of the said contract.

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

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

4. We _____ (Name of the Bank and Branch) further agree with the Board that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said contract and that it shall continue to be enforceable till all the dues of the Board under or by virtue of the said contract have been fully paid and its claims satisfied or discharged or till the Chief Engineer of the said Board certifies that the terms and conditions of the said contract have been fully and properly carried out by the said contractors and accordingly discharge this guarantee. PROVIDED HOWEVER that the Bank shall at the request of the Board but at the cost of the contractors renew or extend this guarantee for such further period or periods as the Board may require from time to time.

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

6. This guarantee will not be discharged due to change in the constitution of the Bank or the Contractor(s).

7. It is also hereby agreed that the courts in Greater Mumbai would have exclusive jurisdiction in respect of claims, if any, under this guarantee.

8. We, _____ (Name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Board in writing.

9. Notwithstanding anything contained herein:

- a) our liability under this Bank Guarantee shall not exceed Rs. _____ (Rupees _____ only);
- b) this Bank Guarantee shall be valid upto _____, and

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

Dated _____ day of _____ 20

for (Name of the Bank)

Signature & Name & Designation.

Seal of the bank

NOTES:

1. The Guarantee shall be from the Mumbai branch of a Scheduled/ Nationalised Bank and encashable in Mumbai branch.
2. The Contractor should fill in all the details, get the draft verified by the Bank and submit the draft in duplicate for approval within 7 days from the date of receipt of the tender acceptance letter.
3. After approval of the draft, the Contractor should get the Guarantee executed on Stamp Paper and submit the executed Guarantee along with his Partnership Deed or Memorandum of Articles of Association of the Company etc. within 7 days of receipt of approved draft. The Contractor should also send along with the executed Guarantee, a letter from the Bank certifying the authorisation of the signatory to the Guarantee.

(Ref: Clause No.15-a-2 of 'Conditions of Contract')

SPECIMEN BILL FORM 1 (For Estimated Bill)

Interim (Estimated) Bill No.: _____

For the period ending: _____

Deadline for making
payment 100% by: _____

For the period CE's Voucher No. & Date
ending

Last Measured Bill No.:

Last Estimated Bill No.:

This Estimated Bill No.:

(1) Name of work and Tender No.

(2) Name of the Contractor:

(3) Acceptance letter No. & date:

(4) Contract price: `

(5) Measurement Book No.:

Page No.:

(6) Abstract Book No.:

Page No.:

	Amount		
	Upto Last Certificate	Since Last Certificate	Upto date

Gross certified value of work:

Less: Cost of materials supplied by
the employer and consumed on the
work:

Total:

Add: Advances granted:

(i)

(ii) etc.

Total:

Less: Deductions/ Recoveries:

(i)

(ii) etc.

Net Payment:

Payment to be made this bill (Rounded off): `

Officer preparing the Certificate:

Signature:

Name:

Designation:

Date:

Contractor:

Signature:

Name:

Date:

Officer making the payment:

Signature:

Name:

Designation:

Date:

Note: Contractor should submit separate GST Invoice in the prescribed format along with above measured bill format.

(Ref: Clause 15-a-2of 'Conditions of Contract')

SPECIMEN BILL FORM 2 (For Measured / Final Bill)

Interim/Final (Measured Bill): Deadline for making payment:

Bill No.: 80% by:

For the period ending: 20% by:

For the period ending CE's Voucher No. & Date

Last Measured Bill No.:

Last Estimated Bill No.:

This Measured Bill No.:

1 Name of Work and Tender
No.:

2 Name of Contractor:

3 Acceptance letter No. & Date:

4 Contract Price: `

5 Measurement Book No.: Page No.:

6 Abstract Book No.: Page No.:

Sr. No.	Description of Item	Quantities executed			Unit	Rate	Amount		
		Upto last Measured Certificate	Since last Measured Certificate	Upto Date			Upto last Measured Certificate	Since last Measured Certificate	Upto Date
						Rs.	Rs.	Rs.	Rs.

Gross certified value of work:

Payment to be made this bill (Rounded off): Rs.

Officer preparing the Certificate: Signature:
Name:
Designation:
Date:

Contractor: Signature:

Name:

Date:

Officer making the payment:

Signature:

Name:

Designation:

Date:

Note: Contractor should submit separate GST Invoice in the prescribed format along with above measured bill format.
