



**CHENNAI PORT TRUST**

**MECHANICAL & ELECTRICAL ENGINEERING DEPARTMENT**

**TENDER No.MEE / 09 / 2018 / DY.CME(R&D)**

TENDER FOR

SUPPLY, INSTALLATION, TESTING & COMMISSIONING OF 1 No. TRUCK MOUNTED FOG CANNON MACHINE WITH 2 YEARS FREE GUARANTEE PERIOD IN CHENNAI PORT TRUST

**INVITATION THROUGH e-TENDER MODE**

**FOR DETAILS VISIT [eprocure.gov.in](http://eprocure.gov.in) and [www.chennaiport.gov.in](http://www.chennaiport.gov.in)**

**CHENNAI PORT TRUST**

**TENDER NO: MEE /09 / 2018 / DY.CME(R&D)**

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**CHENNAI PORT TRUST**  
**MECHANICAL & ELECTRICAL ENGINEERING DEPARTMENT**  
**DY.CME(R&D) DIVISION**  
**NOTICE INVITING TENDER**  
**Tender No.: MEE / 09 / 2018/ DY.CME(R&D)**

<b>Department Name</b>	Mechanical & Electrical Engineering Department
<b>Division</b>	DY.CME (R&D) Division, Old Administrative Office Building, II Floor, Rajaji Salai, Chennai – 600 001.
<b>Tender No.</b>	<b>MEE/ 09 / 2018 / DY.CME(R&amp;D)</b>
<b>Name of Work</b>	Supply, Installation, Testing & Commissioning of 1 No. Truck Mounted Fog Cannon Machine with 2 years Free Guarantee Period in Chennai Port Trust.
<b>Estimate Cost</b>	<b>Rs.57,12,000/-</b>
<b>Completion Period</b>	1) The work shall be completed within 90 days from the date of acceptance or 7 <sup>th</sup> day of issue of Work Order, whichever is earlier. 2) The Quality Assurance Programme (QAP) will be submitted to the Trust within 15 days from the receipt of LoA. 3) The Test Trials of the Fog Canon Machine should be done in the presence of Trust Engineers' as per the Technical Requirements for acceptance.
<b>Bidding Type</b>	Open Tender
<b>Qualifying Criteria</b>	<b>PRE-QUALIFICATION CRITERIA / BIDDING CONDITION</b> i) The <b>Average Annual Financial Turnover</b> during the last Three (3) years ending 31 <sup>st</sup> March of 2014-15, 2015-16 & 2016-17 should be atleast <b>Rs.17,13,600/-</b> . A copy of Annual Turnover Statement, Profit and Loss Statements and Balance Sheet for the aforesaid three years shall be submitted duly certified by Chartered Accountant. ii) The Tenderer should have experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited and should fulfil either of the following: a) <b>One</b> similar completed work of contract value not less than <b>Rs.45,69,600/- (OR)</b> b) <b>Two</b> similar completed works of contract value each not less than <b>Rs.28,56,000/- (OR)</b> c) <b>Three</b> similar completed works of contract value each not less than <b>Rs.22,84,800/-</b>

	<p>'SIMILAR Works" – means "Supply and Commissioning of Truck Mounted Fog Cannon Machine with throw range of 40 metres or more (OR) Supply and Commissioning of Mist Fog Cannon Machine with throw range of 40 metres or more."</p> <p><b>PI Note:</b> The Tenderers shall enclose the "Notarised or Self attested copies of Work Order for similar works, successful completion certificates / Performance Certificates from the end user indicating the date of completion, value of work done, etc. with Work Order Ref.No. and date.</p> <p>"In case the successful tenderer submitting the self attested document, the Tenderer has to produce the original for verification before awarding of work."</p>
<b>Joint Venture</b>	Not Allowed
<b>Rebate</b>	Not Applicable
<b>Bid Security/ EMD Cost:</b>	<p><b>Rs.1,14,240/- (Rupees One lakh fourteen thousand two hundred and forty only)</b></p> <p>Account Payee Demand Draft / Fixed Deposit Receipt / Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects in favour of "The Chairman, Chennai Port Trust" payable at Chennai</p>
<b>Tender Sale Date</b>	<b>03.02.2018</b> Onwards
<b>Pre Bid Meeting Date &amp; Time</b>	<b>14.02.2018 @ 15.00 Hrs.</b>
<b>Last Date &amp; Time of submission of Tenders</b>	<b>27.02.2018 @ 14:30 Hrs.</b>
<b>Tender Opening Date &amp; Time</b>	<b>28.02.2018 @ 15:00 Hrs.</b>
<b>Tender Validity Period</b>	<b>180 Days from the date of Tender opening</b>
<b>Contact Details :</b>	<p><b>The Chief Mechanical Engineer, Chennai Port Trust, VII Floor, Centenary Building, Rajaji Salai, Chennai – 600 001.</b></p> <p>The Dy.CME(R&amp;D), Chennai Port Trust, 2<sup>nd</sup> Floor, Old Admn. Office Building, Rajaji Salai, Chennai – 600 001. Phone No: 9444610664 Email: <a href="mailto:v.thuraipandian.chpt@gov.in">v.thuraipandian.chpt@gov.in</a></p>

**CHIEF MECHANICAL ENGINEER**

## **INSTRUCTIONS FOR ONLINE BID SUBMISSION**

- l) Bidders to follow the following procedure to submit the bids online through the e-Procurement site <https://eprocure.gov.in>
1. Bidder should do the registration in the tender site using the 'Click here to Enroll' option available.
2. Then the Digital Signature of SIFY/TCS/nCode or any Certifying Authority is to be registered after logging into the site.
3. Bidder can use 'My Space' area to update standard documents in advance as required for various tenders and use them during bid submission. This will facilitate the bid submission process by reducing time.
4. Bidder may read the tenders published in the site and download the required documents/tender schedules for the tenders he is interested.
5. Bidder then logs into the site using the secured log in by giving the user id/password chosen during registration and password of the DSC/e-token.
6. Only one DSC should be used for a bidder and should not be misused by others.
7. Bidder should read the tender schedules carefully and submit the documents as asked, otherwise, the bid will be rejected.
8. If there are any clarifications, this may be obtained using clarifications or during the pre-bid meeting. Bidder should take into account of the corrigendums published before submitting the bids online.
9. Bidder must in advance prepare the bid documents to be submitted as indicated in the tender schedule and they should be in required format. If there is more than one document, they can be clubbed together.
10. Bidder should prepare the EMD as specified in the tender. The original should be posted/couriered/given in person to the specified location as per Tender Document, latest by the date of bid submission.
11. Bidder selects the tender which he is interested using search option & then moves it to the 'my favorites folder'.
12. From the 'my favorites folder', he selects the tender to view all the details indicated.
13. The Bidder reads the terms & conditions and accepts the same to proceed further to submit the bid.
14. The Bidder has to select the payment option as offline to pay the EMD as applicable.

15. Either soft copy (scanned copy) or Hard copy of EMD (BG) shall be confirmed before opening the Tender. However during the evaluation of bid the hard copy of EMD (BG) should match with soft copy of the e- portal for further evaluation.
16. The Bidder has to enter the password of the DSC/e-token and the required bid documents have to be uploaded one by one as indicated.
17. The rates offered details have to be entered separately in a spread sheet file (xls) in the space allotted and should be updated as BOQ.xls file for each tender after the financial bid. The BOQ file, if found modified by the bidder, his bid will be rejected.
18. The tendering system will give a successful bid updation message & then a bid summary will be shown with the bid number, the date & time of submission of the bid with all other relevant details. The bidder has to submit the relevant files required as indicated in the cover content. In case of any irrelevant files, the bid will be rejected.
19. The bid summary has to be printed and kept as an acknowledgement as a token of the submission of the bid.
20. The bid summary will act as a proof of bid submission for a tender floated and will also act as an entry point to participate in the bid opening date.
21. For any clarifications with the TIA, the bid number can be used as a reference.
22. Bidder should log into the site well in advance for bid submission so that he submits the bid in time (i.e.) on or before the bid submission time. If there is any delay, due to other issues, bidder only is responsible.
23. Each documents to be uploaded online for the tenders should be less than 2 MB. If any document is more than 2 MB, it can be reduced by scanning at low resolution and the same can be uploaded. However, if the file size is less than 1 MB the transaction uploading time will be very fast.
24. The time settings fixed in the server side & displayed at the top of the tender site, will be valid for all actions of requesting, bid submission, bid opening, etc., in the e-procurement system. The bidder should follow this time during bid submission.
25. All the data being entered by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered will not be viewable by unauthorized persons during bid submission & not be viewable by any one until the time of bid opening.
26. The confidentiality of the bids is maintained since the secured Socket Layer 128 bit encryption technology is used Data storage encryption of sensitive fields is done.

27. Any document that is uploaded to the server is subject to symmetric encryption using a generated symmetric key. Further this key is subjected to asymmetric encryption using buyers' public keys. Overall, the submitted tender documents become readable only after the tender opening by the authorized individual.

28. Tenderer is required to submit their tender through online in the form of Two cover system on or before due date of closing time. The tender received after the due date and time will not be entertained.

Tender Document can be submitted online only in the designated two cover system on the e-tender website eprocure.gov.in on or before the due date and time. However, one Hard copy of the sealed and signed Tender without price bid shall be submitted as specified in the Tender.

Tenderer should submit the tender as per specification indicated in Schedule 'A' and accordance with the instructions to Tenderers, Tender Information Sheet, General Conditions of Contract and Special Conditions of Contract.

29. **Technical and Commercial Bid (Cover-I)**

The Tenderer shall scan and upload the following documents in the e-Portal website:

- i) Account Payee Demand Draft / Fixed Deposit Receipt / Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects in favour of "The Chairman, Chennai Port Trust" payable at Chennai / Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) (or) are registered with the Central Purchase Organisation or the Concerned Ministry or Department for EMD.
- ii) Tender Document Cost – No Charges
- iii) As per Pre-Qualification Criteria – Copies of Annual Turnover, Work Orders and its Completion Certificates / Performance Certificates.

30. **Price Bid (BOQ) – (Cover-II)**

Price should be quoted in Online "Price Schedule – 'A1' (as per BOQ). Price should be quoted in a spread sheet file (.xls format) available in e-procurement portal only. Any indication of 'Quoted price' in the online technical bid documents shall be lead to rejection of the bid outright. For evaluation purpose, the uploaded offer documents will be treated as authentic and final. The price bid submitted through e-procurement mode only will be taken up for the purpose of evaluation.

31. The hard copy of the tender document sealed and signed in every page along with original EMD shall be submitted in the Office on the due date of submission.

32. **Other conditions:**

- a. There are no significant inconsistencies between the proposal and the supporting documents.
- b. The Port Trust reserves the right to reject any tender which in its opinion is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Port Trust in respect of such Tenders.
- c. The Port Trust would have the right to seek clarification on Techno-commercial conditions wherever necessary.
- d. Since the tender involves selection based on pre-qualification criteria and technical specification, the Chief Mechanical Engineer will examine and seek clarification if any and list out the firms, which are found technically suitable and Cover – II Price Bid of such tenders only will be opened and EMD will be returned to the disqualified tenderers.
- e. The date and time will be intimated to tenderers whose offers are found suitable and Cover – II of such tenderers will be opened on the specified time and date.

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## SUMMARY

### **PART 1 - TENDERING PROCEDURES**

#### **Section I Instructions to Tenderers (ITT)**

This Section provides information to help Tenderers prepare their Tenders. Information is also provided on the submission, opening, and evaluation of Tenders and on the award of Contracts.

#### **Section II Tender Information Sheet (TIS)**

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Tenderers.

#### **Section III Evaluation and Qualification Criteria**

This Section specifies the criteria to be used to determine the lowest evaluated Tender, and the Tenderer's qualification requirements to perform the contract.

#### **Section IV Tendering Forms**

This Section includes the forms for the Tender Submission, Price Schedules, Earnest Money Deposit, and the Manufacturer's Authorization to be submitted with the Tender.

### **PART 2 – SUPPLY REQUIREMENTS**

#### **Section V Schedule of Requirements**

This Section includes the List of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured.

### **PART 3 – CONTRACT**

#### **Section VI General Conditions of Contract (GCC)**

This Section includes the general clauses to be applied in all contracts.

#### **Section VII Special Conditions of Contract (SCC)**

This Section includes clauses specific to each contract that modify or supplement Section VI, General Conditions of Contract.

#### **Section VIII Contract Forms**

This Section includes the form for the Agreement, which, once completed, incorporates corrections or modifications to the accepted Tender that are permitted under the Instructions to Tenderers, the General Conditions of Contract, and the Special Conditions of Contract.

The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Tenderer after contract award.

#### **Section IX Integrity Pact**

Integrity Pact

# **PART-1**

## **Tendering Procedures**

### **Section-I: Instruction to Tenderers**

#### **Table of Clauses**

##### **A. General**

1. Scope of Tender
2. Name of the Procurement
3. Fraud and Corruption
4. Eligible Tenderers
5. Eligible Goods and Related Services

##### **B. Contents of Tendering Documents**

6. Sections of Tendering Documents
7. Clarification of Tendering Documents
8. Amendment of Tendering Documents

##### **C. Preparation of Tenders**

9. Cost of Tendering
10. Language of Tender
11. Documents Comprising the Tender
12. Form of Tender and Price Schedules
13. Alternative Proposals
14. Tender Prices and Discounts
15. Currency of Tender
16. Documents Establishing the Eligibility of the Tenderer
17. Documents Establishing the Eligibility of the Goods and Related Services
18. Documents Establishing the Conformity of the Goods and Related Services
19. Documents Establishing the Qualifications of the Tenderer
20. Period of Validity of Tenders
21. Earnest Money Deposit
22. Format and Signing of Tender

##### **D. Submission and Opening of Tenders**

23. Deadline for Submission of Tenders

## **E. Evaluation and Comparison of Tenders**

24. Confidentiality
25. Clarification of Tenders
26. Responsiveness of Tenders
27. Non-conformities, Errors, and Omissions
28. Preliminary Examination of Tenders
29. Examination of Terms and Conditions, Technical Evaluations
30. Conversion to Single Currency
31. Domestic Preference
32. Evaluation of Tenders
33. Comparison of Tenders
34. Joint venture
35. Employer/ Port's Right to Accept Any Tender, and to Reject Any or All Tenders

## **F. Award of Contract**

36. Award Criteria
37. Employer/ Port's Right to Vary Quantities at Time of Award
38. Notification of Award
39. Signing of Contract
40. Performance Guarantee/ Security Deposit
41. Prebid Meeting

# **SECTION – I**

## **INSTRUCTION TO TENDERERS (ITT)**

### **A. GENERAL**

#### **1.0 Scope of Tender:**

The Employer/ Chennai Port Trust indicated in the Tendering Information Sheet (TIS), issues these Tendering Documents for “Supply, Installation, Testing & Commissioning of 1 No. Truck Mounted Fog Cannon Machine with 2 years free Guarantee Period in Chennai Port Trust” as specified in Section-V, Schedule of Requirements.

#### **1.1 Throughout these Tendering Documents:**

- (a) the term **“in writing”** means communicated in written form by printed and/or neatly typed on computer. Communication means message received by the Employer or received from Employer by mail, e-mail, fax, courier, post with proof of receipt/ delivery;
- (b) if the context so requires, **“singular”** means **“plural”** and vice versa; and
- (c) **“day”** means calendar day.
- (d) **“work”** means the entire scope of work as specified in Section V, Schedule of Requirements

#### **2.0 Name of the Work:-**

- 2.1 “Supply, Installation, Testing & Commissioning of 1 No. Truck Mounted Fog Cannon Machine”

#### **3.0 Fraud and Corruption**

**3.1** The Employer/ Port, Tenderers, Contractors, sub contractors, and consultants, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Employer/ Port –

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
  - (i) **“corrupt practice”** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
  - (ii) **“fraudulent practice”** means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;

- (iii) **“collusive practice”** means a scheme or arrangement between two or more Tenderers, designed to establish Tender prices at artificial, non competitive levels; and
- (iv) **“coercive practice”** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (b) will reject a proposal for award if it determines that the Tenderer recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question;
- (c) will terminate contract if it determines at any time that representatives of the Employer/ Port engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract;
- (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract; and
- (e) will have the right to require that a provision be included in Tendering Documents and in contracts, requiring Tenderers, Contractor’s and consultants to permit the Employer to inspect their accounts and records and other documents relating to the Tender submission and contract performance.

**3.2** Furthermore, Tenderers shall be aware of the provision stated in Sub- Clause 34.1(a)(iii) of the General Conditions of Contract.

#### **4.0 Eligible Tenders**

4.1 A Tenderer and all parties constituting the Tenderer, may have the nationality of any country. A Tenderer shall be deemed to have the Indian nationality is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or Contractors for any part of the Contract including Related Services.

4.2. A Tenderer shall not have a conflict of interest. All Tenderers found to have conflict of interest shall be disqualified. Tenderers may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:

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

- (b) submit more than one Tender in this Tendering process However, this does not limit the participation of subcontractors in more than one Tender;
- 4.3 A Tenderer that is under a declaration of ineligibility by the Employer in accordance with ITT Clause 3, at the date of contract award, shall be disqualified. The list of black-listed firms is available at the Employer's Website as specified in the TIS.
- 4.4 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 5.0 **Eligible Equipment and Related Services**

All the equipment and related services to be supplied under the Contract as specified under Section V, Schedule of Requirements.

## **B. CONTENTS OF TENDERING DOCUMENTS**

### **6.0 Sections of Tendering Documents**

- 6.1 The Tendering Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addendum issued in accordance with ITT Clause 8.

#### **PART 1 Tendering Procedures**

- Section I - Instructions to Tenderers (ITT)
- Section II - Tender Information Sheet (TIS)
- Section III - Evaluation and Qualification
- Section IV - Tendering Forms

#### **PART 2 Supply Requirements**

- Section V - Schedule of Requirements

#### **PART 3 Contract**

- Section VI - General Conditions of Contract (GCC)
- Section VII - Special Conditions of Contract (SCC)
- Section VIII - Contract Forms
- Section IX - Integrity Pact

- 6.2 The Complete Tender document (except drawings) may be downloaded from the Port's web site as specified in **TIS**. Such down loaded documents shall be considered valid for participating in the Tender process. There is no cost for downloading of Tender Document.
- 6.3 The Notice Inviting Tenders (NIT) issued by the Employer forms part of the Tendering Documents and Integrity Pact.
- 6.4 The Employer shall make his all out efforts to ensure the correctness of Documents available on the Web site. The Employer is not responsible for the

completeness or correctness of the Tendering Documents and their addendum, if they were not obtained directly from the Employer.

- 6.5 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tendering Documents. Failure to furnish all information or documentation required by the Tendering Documents may result in the rejection of the Tender.

In case of tender document being downloaded from the web site, at the time of submission of (the hard copy of) the tender document, the Tenderer shall give an undertaking that no changes have been made in the document as per declaration form Section IV, He shall be issued a printed set of the Document under acknowledgement with a condition that the printed version of the Port Tender document will be treated as the authentic tender and if any discrepancy is noticed at any stage between the Port's tender document and the one submitted by the Tenderer, the conditions mentioned in the port's printed document shall prevail. Besides, the Tenderer shall be liable for legal action for the lapses.

## 7.0 Clarifications of Tendering Documents

- 7.1 A prospective Tenderer requiring any clarification of the Tendering Documents shall contact the Employer in writing at the Employer's address specified in the **TIS**. The Employer will respond in writing to any request for clarification, provided that such request is received not later than three (3) days prior to the date of pre-bid meeting. As Specified in **TIS**, Employer will conduct the Pre bid meeting and prospective Tenderers may attend the Pre-bid meeting. Employer shall issue clarifications during the meeting. The Employer shall forward copies of its response to all those who have purchased the Tendering Documents directly from it, including a description of the inquiry. Should the Employer deem it necessary to amend the Tendering Documents as a result of a clarification, it shall do so following the procedure under ITT Clause 8 and ITT Sub-Clause 23.2. However, the Minutes of Meeting/ Clarifications/ Addenda shall be posted on the Employer's Web site.
- 7.2 The Tenderer shall be deemed to have thoroughly examined the General and Special Conditions of contract, Various Schedules, drawings and scope of site works and restrictions thereof. If he shall have any issues to be clarified, the same shall be brought to the notice of the Employer in writing as set out in ITT clause 7.1.

## 8.0 Amendment of Tendering Documents

- 8.1 The Trust may for any reason and at any time prior to the deadline for submission of tender, whether at its own initiative or in response to clarifications requested by the Tenderer, modify the Trust Tender Document by the issuance of Addendum.
- 8.2 Any addendum issued shall be part of the Tendering Documents and shall be communicated in writing to all who have obtained the Tendering Documents directly from the Employer.

- 8.3 In order to offer reasonable time for the prospective Tenderer to take an Addendum into account, or for any other reason, the Chennai Port Trust may, at its discretion, extend the Tender due date, if considered necessary pursuant to ITT Sub-Clause 23.2
- 8.4 The Tenderers will have to regularly check the Trust's website [www.chennaiport.gov.in](http://www.chennaiport.gov.in) and CPP Portal [www.eprocure.gov.in](http://www.eprocure.gov.in) for any addendum published. The Trust will not be held responsible if the tenderers have not read the addendum published.
- 8.5 Any Addendum thus issued to all the Tenderers and Tender Committee Meeting shall form part and parcel of the Agreement.

## **C. PREPARATION OF TENDERS**

### **9.0 Cost of Tendering**

- 9.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

### **10.0 Language of Tender**

- 10.1 The Tender, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the Employer, shall be written in the language specified in the **TIS**. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language specified in the **TIS**, in which case, for purposes of interpretation of the Tender, such translation shall govern.

### **11.0 Documents comprising the Tender**

- 11.1 The Tender shall comprise the following:
- (a) Form of Tender and the applicable Price Schedules, in accordance with ITT Clauses 12, 14, and 15;
  - (b) Earnest Money Deposit (EMD), in accordance with ITT Clause 21, if required;
  - (c) Written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT Clause 22;
  - (d) Documentary evidence in accordance with ITT Clause 16 establishing the Tenderer's eligibility to Tender;
  - (e) Documentary evidence in accordance with ITT Clause 17, that the Goods and Related Services to be supplied by the Tenderer as specified in Section V, Schedule of Requirements;
  - (f) Documentary evidence in accordance with ITT Clauses 18 and 30, that the Goods and Related Services conform to the Tendering Documents;
  - (g) Documentary evidence in accordance with ITT Clause 19 establishing the Tenderer's qualifications to perform the contract if its Tender is accepted; and
  - (h) Any other document required in the TIS.



## 12.0 Form of Tender

The tenderer shall submit the Form of Tender using the Form furnished in Section-IV Tendering Forms. This form must be completed without any alterations to its format and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

## 13.0 Alternative Proposal

13.1 Alternative proposals **shall not be considered**, unless otherwise specified in TIS.

## 14.0 Tender Prices and Discounts

14.1 The prices and discounts quoted by the Tenderer in the Form of Tender and in the Price Schedules shall conform to the requirements specified below.

14.2 All lots and items must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedules but specified in the Section V, Schedule of Requirements, their prices are deemed to have been in the Prices of other items.

14.3 The price to be quoted in the **Price Schedule - Schedule A1** shall be the total price of the Tender, excluding any discounts offered.

14.4 The Tenderer shall quote unconditional discounts, if any and indicate the method for their application in the Form of Tender.

14.5 Prices shall be quoted as specified in each Price Schedule included in Section-IV, Tendering Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by the Employer. This shall not in any way limit the Employer's right to contract on any of the terms offered. The Tenderer may obtain transport and insurance services as specified in **TIS**. Prices shall be entered in the following manner:

**(a)** For Goods manufactured in India:

The financial evaluation of the Tender will be based on the Base Price of supply of goods or services or both excluding the applicable GST.

Applicable GST on the taxable value of supply of goods and services or both covered in this tender / contract will be paid by Port as re-imbusement as production of documentary evidences / reflection of the same under the GSTIN of ChPT in the GST web portal. Applicable Statutory recoveries including TDS under Income Tax, TDS under GST acts will be deducted / recovered while accounting for or making payments to the Vendor as per the applicable laws.

The Contract Price quoted by the Vendor / Contractor / Supplier for the supply of goods or services or both shall contain in the Bid format the taxable value of goods or services or both, names of applicable taxes, the rates at which such taxes are leviable, the amount of such taxes for the value of taxable supply of goods or service or both and the service accounting code as per the GST Regulation wherever possible.

- (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) specified in the **TIS**.
  - (b) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
    - (i) the price of each item comprising the Related Services (inclusive of all applicable taxes).
- 14.6 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not subject to variation on any account unless otherwise specified in **TIS** and in accordance with GCC clause 30.1. A Tender submitted with an adjustable price quotation shall be treated as non responsive and shall be rejected, pursuant to ITT Clause 30.

#### 15.0 **Currency of Tender**

- 15.1 The Tenderer shall quote their rate in Indian Currency (INR).

#### 16.0 **Documents establishing the Eligibility of the Tender**

- 16.1 To establish their eligibility in accordance with ITT Clause 4, Tenderers shall complete the Form of Tender, included in Section IV, Tendering Forms.

#### 17.0 **Documents establishing the Eligibility of the Goods and Related Services**

- 17.1 To establish the eligibility of the Goods and Related Services in accordance with ITT Clause 5, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Tendering Forms.

#### 18. **Documents establishing the Conformity of the Goods and Related Services**

- 18.1 To establish the conformity of the Goods and Related Services to the Tendering Documents, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section V, Schedule of Requirements.

18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.

18.3 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period specified in the **TIS** following commencement of the use of the goods by the Employer.

18.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Employer in the Schedule of Requirements, are intended to be descriptive only and not restrictive.

#### **19.0 Documents establishing the Qualifications of the Tenderer**

19.1 The documentary evidence of the Tenderer's qualifications to perform the contract if its Tender is accepted shall establish to the Employer's satisfaction:

- (a) that, if required in the TIS, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Tendering forms to demonstrate that it has been duly authorized by the manufacture or producer of the Goods to supply these Goods in India;
- (b) that, if required in the TIS, in case of a Tenderer not doing business with in India, the Tenderer is or will be (if awarded the contract) represented by an Agent in the country equipped and able to carry out the Contactor's maintenance, repair and spare parts stocking obligations prescribed in the Conditions of contract and / or Technical specifications; and
- (c) that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

#### **20.0 Period of Validity of Tenders**

20.1 Tenders shall remain valid for the period specified in the **TIS** after the Tender submission deadline date prescribed by the Employer. A Tender valid for a shorter period shall be rejected by the Employer as non responsive.

20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Employer may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If an EMD is requested in accordance with ITT Clause 21, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its EMD. A Tenderer granting the request shall not be required or permitted to modify its Tender.

## **21.0 Earnest Money Deposit**

- 21.1 The Tenderer shall furnish as part of its Tender, an EMD, as specified in the TIS.
- 21.2 The EMD shall be in the amount specified in the TIS and denominated in the currency of the Employer's Country.
- a) at the Tenderer's option, be in the form of Account Payee Demand Draft/ Fixed Deposit Receipt/ Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects, in favour of Chairman, Chennai Port Trust payable in Chennai in accordance with ITT clause 21.1 and as specified in the TIS;
  - b) EMD not in the form and manner as per ITT clause 21.1(a) shall not be accepted and bid shall be treated as bid without EMD;
  - (c) be payable promptly upon written demand by the Employer in case the conditions listed in ITT Clause 21.5 are invoked;
  - (d) be submitted in its original form; copies will not be accepted;
  - (e) remain valid for a period of 45 days beyond the validity period of the Tenders, as extended, if applicable, in accordance with ITT Clause 20.2;

If an EMD is required in accordance with ITT Sub-Clause 21.1, any Tender not accompanied by EMD in accordance with ITT Sub-Clause 21.1, shall be rejected by the Employer as non-responsive.

The EMD of unsuccessful Tenderers will be returned after expiry of the final bid validity and latest on or before the 30<sup>th</sup> day after the award of the contract.

The EMD may be forfeited:

- (a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, except as provided in ITT Sub-Clause 20.2; or
  - (b) if the successful Tenderer fails to:
    - (i) sign the Contract in accordance with ITT Clause 39;
    - (ii) furnish a Performance Guarantee in accordance with ITT Clause 40;
    - (iii) pursuant to ITT clause 27.4.
- 21.6 The Tenderer shall note that no interest is payable on the EMD by the Employer.

## **22.0 Format and Signing of the Tender**

- 22.1 The Price Bid to be submitted on-line shall be signed digitally by a person or persons duly authorized to sign on behalf the Bidders. However, One Hard copy of the tender shall be sealed & signed and submitted as described in ITT Clause 11 and clearly marks it "ONE HARD COPY OF THE TENDER".
- 22.2 In case of tender document being downloaded from the web site, at the time of submission of (the hard copy of) the tender document, the Tenderer shall give an undertaking that no changes have been made in the document as per declaration form Section IV, He shall be issued a printed set of the Document under acknowledgement with a condition that the printed version of the Port Tender document will be treated as the authentic tender and if any discrepancy is noticed at any stage between the Port's tender document and the one submitted by the Tenderer, the conditions mentioned in the port's printed document shall prevail. Besides, the Tenderer shall be liable for legal action for the lapses.

## **D. Submission of One Hard Copy of the offer as specified in the Tender**

### **23.0 Deadline for the submission of the Tenders**

- 23.1 Hard Copy of the Tenders must be received by the Employer at the address and not later than the date and time specified in the **TIS**.
- 23.2 The Employer may, at its discretion, extend the deadline for the submission of Tenders by amending the Tendering Documents in accordance with ITT Clause 8, in which case all rights and obligations of the Employer and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

## **E. Evaluation and Comparison of Tenders**

### **24.0 Confidentiality**

- 24.1 Information relating to the examination, evaluation, comparison and post-qualification of Tenders, and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with such process until publication of the Contract Award.
- 24.2 Any effort by a Tenderer to influence the Employer in the examination, evaluation, and comparison, of the Tenders or contract award decisions may result in the rejection of its Tender and forfeiture of EMD.
- 24.3 Notwithstanding ITT Sub-Clause 24.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Employer on any matter related to the Tendering process, it should do so in writing.

## **25.0 Clarification of Tenders**

25.1 To assist in the examination, evaluation and comparison of the Tenders, the Employer may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the Evaluation of the Tenders, in accordance with ITT Clause 27.

## **26.0 Responsiveness of Tenders**

26.1 Prior to evaluation of Applications, the Authority shall determine whether each Application is responsive to the requirements of the tender. An application shall be considered responsive only if:

- a) It is received by the Application Due date including any extension there of.
- b) It is signed, sealed, bound together in the hard copy of the Tender document.
- c) Auditor's report of Annual turn over for last three years in original and copies of profit and loss statements and balance sheet for last three years with endorsed by CA.
- d) The Tenderers shall enclose the "Notarised or Self attested copies of Work Order for similar works, successful completion certificates / Performance Certificates from the end user indicating the date of completion, value of work done, etc. with Work Order Ref.No. and date.

In case the successful tenderer submitting the self attested document, the tenderer has to produce the original for verification before awarding of work."

- e) Copy of valid EA Grade license in the Firm's name.
  - f) It is accompanied by the Power of Attorney.
  - g) It contains all the information in formats and documents as requested in all respects.
  - h) Copy of ESI Registration Number.
  - i) Copy of Goods and Service Tax Registration Number.
- 26.2 The Employer's determination of a Tender's responsiveness shall be based on contents of Tender itself & clarifications in accordance with ITT clause 25.
- 26.3 A substantially responsive Tender is one that conforms to all the terms, conditions, and specifications of the Tendering Documents without material

deviation, reservation or omission. A material deviation, reservation or omission is one that:

- (a) affects in any substantial way the scope, quality or performance of the Goods and Related Services specified in the Contract any substantial way, inconsistent with the Tendering Documents, the Employer's rights or the Tenderer's obligations under the Contract; (or)
- (b) if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

26.4 Tenders shall not contain the following information/ conditions to consider them responsive:

- (a) Either direct or indirect reference leading to reveal the Prices of the Tenders in the Techno-Commercial Covers;
- (b) Techno-commercial conditions in the Price Cover;
- (c) Adjustable prices;
- (d) Irrelevant information.

26.5 If a Tender is not substantially responsive to the Tendering Documents, it shall be rejected by the Employer and may not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.

## 27.0 **Non-conformities, Errors and Omissions**

27.1 Provided that a Tender is substantially responsive, the Employer may waive any non-conformities or omissions in the Tender that do not constitute a material deviation.

27.2 Provided that a Tender is substantially responsive, the Employer may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

27.3 Provided that the Tender is substantially responsive, the Employer shall correct arithmetical errors on the following basis:

- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals or arithmetically corrected sub totals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an

arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

- 27.4 If the Tenderer that submitted the lowest evaluated Tender does not accept the correction of arithmetical errors, its Tender shall be rejected and treated in accordance ITT clause 21.5.

## **28.0 Preliminary Examination of Tenders**

- 28.1 The Employer shall examine the Tenders to confirm that all documents and technical documentation requested in ITT Clause 11 have been provided, and to determine the completeness of each document submitted.

- 28.2 The Employer shall confirm that the following documents and information have been provided in the Tender. If any of these documents or information is missing, the offer shall be rejected.

(a) Form of Tender and Price Schedules , in accordance with ITT Sub-Clause 12.

(b ) EMD, in accordance with ITT Clause 21, if applicable.

## **29.0 Examination of Terms and Conditions, Technical Evaluations**

- 29.1 The Employer shall examine the Tender to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Tenderer without any material deviation or reservation.

- 29.2 The Employer shall evaluate the technical aspects of the Tender submitted in accordance with ITT Clause 18, to confirm that all requirements specified in Section V, Schedule of Requirements of the Tendering Documents have been met without any material deviation or reservation.

- 29.3 If, after the examination of the terms and conditions and the technical evaluation, the Employer determines that the Tender is not substantially responsive in accordance with ITT Clause 26, it shall reject the Tender.

## **30.0 Conversion to Single Currency**

- 30.1 For evaluation and comparison will be in Indian Currency only.

## **31.0 Domestic/ Price/Purchase Preference**

- 31.1 No Domestic/ Purchase/ Price preference is envisaged unless otherwise stated in TIS.

## **32.0 Evaluation of Tenders**

- 32.1 The Employer shall evaluate each Tender that has been determined, up to this stage of the evaluation, to be substantially responsive. The Employer shall evaluate the Techno Commercial cover as following :

(a) Evaluation in accordance with ITT clause 28 and 29;



(b) Evaluation in accordance with Section III;

32.2 To evaluate a Tender, the Employer shall only use all the factors, methodologies and criteria defined in ITT Clause 32. No other criteria or methodology shall be permitted.

32.3 To evaluate a Tender of those Tenderers whose tenders are evaluated in accordance with ITT clause 32.1 and found responsive in accordance with ITT clause 26, the Employer shall consider the following:

- (a) evaluation will be done for as specified in the TIS; and the Tender Price as quoted in accordance with clause 14;
- (b) price adjustment for correction of arithmetic errors in accordance with ITT Sub-Clause 27.3;
- (c) price adjustment due to discounts offered in accordance with ITT Sub-Clause 14.4;
- (d) due to the application of the evaluation criteria specified in the **TIS** from amongst those set out in Section III, Evaluation and Qualification Criteria;

### **33.0 Comparison of Tenders**

33.1 The Employer shall compare all substantially responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 32.

### **34.0 Joint Venture (JV)**

34.1 JV is not permitted in this tender.

### **35.0 Employer's Right to Accept any Tender and to Reject any or all Tenders**

35.1. The Employer reserves the right to accept or reject any tender, and to annul the Tendering process and reject all Tenders at any time prior to contract award, without thereby incurring any liability to Tenderers.

## **F. Award of Contract**

### **36.0 Award Criteria**

36.1 The Employer shall award the Contract to the Tenderer whose offer has been determined to be the lowest evaluated Tender and is substantially responsive to the Tendering Documents, based on the "FINAL COST" to the Employer.

### **37.0 Employer's Right to Vary Quantities at Time of Award**

37.1 At the time the Contract is awarded, the Employer reserves the right to increase or decrease i.e., 30% the quantity of Goods and Related Services originally specified in Section V, Schedule of Requirements, provided this does not exceed the percentages specified in the **TIS**, and without any change in the unit prices or other terms and conditions of the Tender and the Tendering Documents.

### **38.0 Notification of Award**

- 38.1 Prior to the expiration of the period of Tender validity or extended validity in accordance with ITT clause 20.2, the Employer shall notify the successful Tenderer, in writing, that its Tender has been accepted.
- 38.2 Until a formal Contract is prepared and executed, the notification of award and Form of Tender shall constitute a binding Contract.
- 38.3 The Employer shall publish in its Website the Notification of Award detailing the following information:
- i. Tender No.
  - ii. Item/ Nature of work
  - iii. Mode of Tender Enquiry
  - iv. Date of Publication of NIT
  - v. Type of Bidding (Single/ Two Bid System)
  - vi. Last date of receipt of tender
  - vii. Nos. of tenders recd.
  - viii. Nos. and names of parties qualified after technical evaluation
  - ix. Nos. and names of parties not qualified after technical evaluation
  - x. Whether contract awarded to lowest Tenderer/ Evaluated L1
  - xi. Contract No. & Date
  - xii. Name of Contractor
  - xiii. Value of Contract
  - xiv. Scheduled date of completion of supplies.
- 38.4 Upon the successful Tenderer's furnishing of the signed Agreement Form and performance guarantee pursuant to ITT Clause 40, the Employer will promptly notify each unsuccessful Tenderer and will discharge its EMD, pursuant to ITT Clause 21.4.

### **39.0 Signing of Contract – Execution of Agreement**

- 39.1 Execution of Agreement is from the date of payment of Security of Deposit.
- 39.2 Promptly after notification, the Employer shall send to the successful Tenderer the draft agreement and the Special Conditions of Contract.
- 39.3 Within specified period, as specified in **TIS**, the successful Tenderer shall sign, date, and return the Agreement Form to the Employer from the date of Receipt of Notification of Award issued by the Employer
- 39.4 All Costs, charges and expenses of drafting the Contract Agreement including Stamp Duty shall be borne by the Successful Tenderer.
- 39.5 Successful tenderer shall forfeit EMD pursuant to ITT clause No. 21.5 (b)(ii).

39.6 If Agreement has not been executed within the stipulated period, action for termination shall be initiated.

#### **40.0 Performance Guarantee/Security Deposit**

- 40.1 The Security Deposit of 10% of the Contract Value shall be submitted by the Successful bidder within 21 days from the date of acceptance or 7<sup>th</sup> day of the issue of Work Order.
- 40.2 Performance Security be submitted as Account Payee Demand Draft / Fixed Deposit receipt from a Commercial Bank / Bank Guarantee from a Commercial Bank or online payment in an acceptable form safeguarding the purchaser's interest in all respects, in favour of 'The Chairman, Chennai Port Trust ' payable at Chennai.
- 40.3 In case the Contractor fails to remit SD within the stipulated period, the department shall initiate action for forfeiture of EMD within a period of 15 days.
- 40.4 If the department decided to condone the delayed payment of SD with justification, the SD have to be remitted along with interest @ 18% provided the maximum period of condonation does not exceed 15 days from the stipulated period.
- 40.5 Security Deposit paid in any mode except as specified above will not be taken into account and the concerned tender will be rejected.
- 40.6 Security Deposit shall be refunded after successful completion of free guarantee period of two years or extended guarantee period.
- 40.7 Security Deposit should remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the supplier including warranty obligations.

#### **41.0 PRE-BID MEETING**

A Pre-bid meeting with prospective tenderers will be held at Conference Room, 7<sup>th</sup> Floor, Centenary Building on 14.02.2018 at 3.00 P.M., in which tenderer may take the opportunity of seeking clarification if any. Tenderers are advised to attend the Pre-bid meeting. Non-attendance of the Pre-Bid Meeting shall not be a cause for disqualification of the tender. Based on the discussion the Technical Specifications and conditions will be frozen as necessary. Tenderers are advised to seek clarification in writing and forward the same to The Chief Mechanical Engineer, Chennai Port Trust, Rajaji Salai, Chennai – 600 001 at least 7 days before the date fixed for pre-bid meeting. No queries will be entertained after pre-bid meeting. The text of questions raised and response of the Trust will be sent to all tenderers within 5 days after the pre-bid meeting and the same will be displayed in the Trust Website.

**CHIEF MECHANICAL ENGINEER**

## Section II

### Tender Information Sheet (TIS)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT) whenever there is a conflict, the provisions herein shall prevail over those in ITT:

<b>ITT Clause Reference</b>	<b>A. General</b>
<b>ITT 1.1</b>	The Employer is: <b>Chennai Port Trust, Chennai.</b> Tender No. <b>MEE / 09 / 2018 /DY.CME(R&amp;D)</b> Name of the Work: “e-Tender For “Supply, Installation, Testing & Commissioning of 1 No. Truck Mounted Fog Cannon Machine with 2 years Free Guarantee Period in Chennai Port Trust” <b>under Two Cover System.</b>
<b>ITT 2.1</b>	The title of the Project is: “Supply, Installation, Testing & Commissioning of 1 No. Truck Mounted Fog Cannon Machine with 2 years Free Guarantee Period in Chennai Port Trust”
<b>ITT 4.3</b>	A list of Black Listed firms participating in this tender is available at <b>Error! Hyperlink reference not valid.</b> <a href="http://www.chennaiport.gov.in">www.chennaiport.gov.in</a> .
<b>ITT 6.2</b>	Complete Tender document is available at <b>Error! Hyperlink reference not valid.</b> <a href="http://www.eprocure.gov.in">www.eprocure.gov.in</a> & <a href="http://www.chennaiport.gov.in">www.chennaiport.gov.in</a> Tender Document Cost – No charges
	<b>B. Contents of Tendering Documents</b>
<b>ITT 7.1</b>	For <b><u>Purchase &amp; Clarification of Tendering Document</u></b> , The Employer’s address is: <b>The Dy.CME(R&amp;D), Chennai Port Trust, 2<sup>nd</sup> Floor, Old Admn. Office Building, Rajaji Salai, Chennai – 600 001. Phone No: 9444610664 Email – <a href="mailto:v.thuraipandian.chpt@gov.in">v.thuraipandian.chpt@gov.in</a></b> Pre bid meeting shall be conducted at <b>CME’s Conference Hall, Office of the Chief Mechanical Engineer, 7<sup>th</sup> Floor, Centenary Building, Chennai Port Trust on 14.02.2018 at 15.00 Hrs. <i>Prospective Tenderers may attend the same.</i></b>

	<b>C. Preparation of Tenders</b>
<b>ITT 10.1</b>	<p>The language of the Tender is: <i>“English”</i>.</p> <p>Tenderers shall not submit Tenders in ANY OTHER language. The Contract to be signed with the Successful Tenderer shall be written in the language in which the Tender was submitted, which will be the language that shall govern the contractual relations between the Employer and the SUCCESSFUL Tenderer. A Tenderer shall not sign a translated version of its Contract”.</p>
<b>ITT 11.1 (h)</b>	<p>The Tenderer shall submit the following additional documents in its Tender:</p> <ol style="list-style-type: none"> <li>a. Reports on financial standing of the Tenderer including annual turn over, Profit and loss statements, balance sheet, and auditor's report for the last three years i.e., 2014-15, 2015-16 &amp; 2016-17 duly certified by Chartered Accountant</li> <li>b. Details of work completed in past.</li> <li>c. Experience of having successfully completed similar works during last 7 years ending last day of the month previous to the one in which applications are invited along with Contract value and other related details (copies of the supply orders placed on them by the parties).</li> <li>d. Arrangement for importing spare parts, tie up with local firms for supply of spare parts, if any and arrangement for after sales service.</li> <li>e. The Tenderers shall enclose the “Notarised or Self attested copies of Work Order for similar works, successful completion certificates / performance certificates from the end user indicating the date of completion, value of work done, etc. with Work Order Ref.No. and date.</li> </ol> <p>“In case the successful tenderer submitting the self attested document, the Tenderer has to produce the original for verification before awarding of work.”</p>
<b>ITT 13.1</b>	Alternative proposals <i>shall not be</i> considered.
<b>ITT 14.5</b>	Insurance and Transport shall be arranged in accordance with GCC clause 23 and 24 respectively.
<b>ITT 14.5 (a) (iii)</b>	Chennai Port Trust.
<b>ITT 14.6</b>	The prices quoted by the Tenderer <i>shall not</i> be adjustable except on account of statutory taxes and duties payable in INDIA and in accordance with GCC clause 16
<b>ITT 15.0</b>	The Tenderer is required to quote in only <b>Indian Rupees (INR)</b> .
<b>ITT 19.1.(a)</b>	Manufacturer’s authorization is mandatory.

ITT 19.1.(b)	The Tenderer shall submit his/manufacture's details of service agent / representative's address in India along with Tel/ Fax/ Mail addresses for the use of Employer.
ITT 20.1	The Tender validity period shall be <b>180</b> days.
ITT 21.1 and 21.2 (a)	<p>EMD (Bid Security) to be submitted along with the bids in the form of Account Payee Demand Draft/ Fixed Deposit Receipt/ Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects in favour of Chairman, Chennai Port Trust, payable at Chennai.</p> <p>EMD of the unsuccessful bidders will be returned after expiry of the final bid validity and latest on or before the 30<sup>th</sup> day after the award of contract.</p> <p>However, Bid Security should be refunded to the successful bidder on receipt of Performance Security.</p> <p>EMD shall be valid for a period of forty-five days beyond the final bid validity period in accordance with ITT clause 20.1.</p> <p>The EMD shall be retained until finalization of Tenders. If any statements /documents/information submitted by the Tenderer is found false cum incorrect. Willful misrepresentation or omission of facts or fake cum forged documents, the EMD shall be forfeited.</p> <p>Exemption of EMD shall be allowed with validity in case of</p> <p>a. Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) (or)</p> <p>b. are registered with the Central Purchase Organisation or the Concerned Ministry or Department.</p>
ITT 21.2	The amount of the Earnest Money Deposit (EMD) shall be: <b>Rs.1,14,240/- (Rupees One lakh fourteen thousand two hundred and forty only)</b> in the form of Account Payee Demand Draft/ Fixed Deposit Receipt/ Banker's Cheque or Bank Guarantee from any of the Commercial Banks (or) Payment online in an acceptable form, safeguarding the purchaser's interest in all respects in favour of Chairman, Chennai Port Trust payable at Chennai.
ITT 22.1	In addition to the Online Tender, one Hard Copy of the tender is required as specified in the Tender.
	<b>D. Submission of Hard Copy Tender</b>
ITT 23.1	Tenderers <i>shall</i> submit their Tenders electronically only i.e., e-Tendering mode. However, One Hard Copy of the tender shall be submitted as specified in the Tender.

ITT 23.1	For the purpose of submission of One Hard copy to Employer's address is: <b>The Chief Mechanical Engineer,</b> 7 <sup>th</sup> floor, Centenary Building Chennai Port Trust, Rajaji Salai, Chennai – 600 001. Country: <i>India</i> Telephone: (044) – 25362070 Facsimile number: (044) – 25360955
ITT 27.1	The Tender opening at: Chief Mechanical Engineer Chennai Port Trust, Chennai, Tamilnadu. <b>Time:15.00 Hrs. and Date:28.02.2018</b>
	<b>E. Evaluation and Comparison of Tenders</b>
ITT 30.1	Not applicable to this tender, since the quoted price is in Indian National Rupees only.
ITT 31.1	Not applicable for this tender.
ITT 32.3(a)	The total cost will be taken for the evaluation.
ITT 32.3(d)	The contract price shall be determined using the criteria set out in Section III, Evaluation and Qualification Criteria.
ITT 34.1	JVs/Consortium is not applicable to this tender.
	<b>F. Award of Contract</b>
ITT 36.1	<b>Contract will be awarded to the lowest tenderer based on the total cost</b>
ITT 37	Variation of quantities shall be as per clause no GCC 41.
ITT 39.2 and 40.1	Contract Agreement shall be executed by the successful bidder 21 days from the date of payment of Security Deposit Performance Guarantee / Security Deposit of 10% of Contract Value shall be submitted by the successful bidder within 21 days from the date of acceptance or 7 <sup>th</sup> day of the issue of work order.
ITT 41.0	Pre-Bid Meeting – 14.02.2018 @ 3.00 P.M. Venue of Pre-Bid Meeting – Conference Hall, CME's Office, 7 <sup>th</sup> Floor, Centenary Building, Chennai Port Trust, Chennai – 600 001.

## Section III

### Evaluation and Qualification Criteria

This Section complements the Instructions to Tenderers. It contains the criteria that the Employer may use to evaluate a Tender and determine whether a Tenderer has the required qualifications. No other criteria shall be used.

#### **Contents**

Joint Venture (ITT 34.1)

Evaluation Criteria (ITT 32.3 {d})

Pre Qualification Criteria

**1. JOINT VENTURE (ITT 34.1)** - Not applicable to this tender.

#### **2. EVALUATION CRITERIA (ITT 32.3 (d))**

The Employer's evaluation of a Tender may take into account, in addition to the Tender Price quoted in accordance with ITT Clause 14.5, one or more of the following factors as specified in ITT Sub-Clause 32.1 and in **TIS** referring to ITT 32.3(d), using the following criteria and methodologies.

**(a) Completion schedule** (as specified in the TIS)

**(b) Deviation in payment schedule:**

Tenderers shall state their Tender price for the payment schedule outlined in accordance with clause of **GCC** read with **SCC** Tenders shall be evaluated on the basis of **Final Price to the Employer. Tenderer shall not be permitted to state an alternative payment schedule.**

**(c)** The cost towards supply of items shall include the cost incurred during guarantee period for carrying out maintenance and servicing as per the schedule and any breakdown inclusive of spares (critical, mandatory, consumables, replacement, etc., as the case may be) required for preventive and breakdown maintenance.

#### **3. PRE-QUALIFICATION CRITERIA**

##### **i) PRE-QUALIFICATION CRITERIA / BIDDING CONDITION**

The **Average Annual Financial Turnover** during the last Three (3) years ending 31<sup>st</sup> March of 2014-15, 2015-16 & 2016-17 should be at least **Rs.17,13,600/-**. A copy of Annual Turnover Statement, Profit and Loss Statements and Balance Sheet for the aforesaid three years shall be submitted duly certified by Chartered Accountant.

ii) The Tenderer should have experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited which should fulfill either of the following:-



- a) **One** similar completed work of contract value not less than **Rs.45,69,600/-**.  
(OR)
- b) **Two** similar completed works of contract value each not less than **Rs.28,56,000/-**.  
(OR)
- c) **Three** similar completed works of contract value each not less than **Rs.22,84,800/-**.

‘SIMILAR Works’ – means “**Supply and Commissioning of Truck Mounted Fog Cannon Machine with throw range of 40 metres or more (or) Supply and Commissioning of Mist Fog Cannon Machine with throw range of 40 metres or more.**”

**PI Note:** The Tenderers shall enclose the “Notarised or Self attested copies of Work Order for similar works, successful completion certificates / performance certificates from the end user indicating the date of completion, value of work done, etc. with Work Order Ref.No. and date.

“In case the successful tenderer submitting the self attested document, the Tenderer has to produce the original for verification before awarding of work.”

**Specimen Pre-QUALIFICATION OF BIDDERS**

The information to be filled in by the Bidder in the following pages will be used for purposes of Pre-Qualification as provided for in the Instructions to Tenderers.

**1. Only for Individual Bidders**

1.1. Constitution or legal status of Bidder (*Attach copy*)

- Place of registration:
- Principal place of business
- Power of attorney of signatory of Bid (*Attach*)

**2. Turnover of the Firm**

YEAR  (last three financial years ending 31 <sup>st</sup> March)	TURNOVER
2014-15	
2015-16	
2016-17	

**Attachments:** Attested copies of Financial reports for the last **three** years: Balance sheets, profit and loss statements, auditor’s reports (in case of companies/corporation) etc., List them below and attach copies.

**3. Similar Works during last seven years**

Particulars	Year	No. of Works	Value
Total value of completed similar work as defined in the tender document during last 7 years ending last day of month previous to the one in which applications are invited.			

Attachments: Supporting documents, viz., successful completion certificates / performance certificates indicating the work order reference and value for which the work order was executed from clients, other documentations to substantiate the similarity of work as per definition of ‘Similar work’ employer reserves the right to verify the information:

**4. Information on litigation history in which the Bidder is involved.**

Other parties	Port	Cause of dispute	Amount	Remarks involved showing present status

**5. Additional Information Bidder may like to submit**

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

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

**SECTION- IV**  
**TENDERING FORMS**  
**Table of Forms**

- |    |                           |   |          |
|----|---------------------------|---|----------|
| 1. | Declaration Form          | – | (Form-1) |
| 2. | Authority letter          | - | (Form-2) |
| 3. | Tender Submission Form    | – | (Form-3) |
| 4. | Tenderer Information Form | - | (Form-4) |

Form No. 1

**SPECIMEN FORMAT FOR DECLARATION**

*(To be executed on bidder's letter head)*

To:

The Chief Mechanical Engineer,  
Chennai Port Trust,  
Chennai 600 001.

(Project Title) : "Supply, Installation, Testing & Commissioning of 1 No. Truck Mounted Fog Cannon Machine with 2 years Free Guarantee Period in Chennai Port Trust" under Two Cover System."

Ref: MEE / 09 / 2018 / Dy.CME(R&D)

The Undersigned, having studied the pre-qualification submission for the above mentioned project, hereby states:

- (a) The information furnished in our bid is true and accurate to the best of my knowledge.
- (b) That in case of being pre-qualified, we acknowledge that the Employer may invite us to participate in due time for the opening of Price cover of the tender on the basis of provisions made in the tender documents to follow.
- (c) When the call for tenders is issued, if the legal, technical or financial conditions, or the contractual capacity of the firm or joint venture changes, we commit ourselves to inform you and acknowledge your sole right to review the pre-qualification made.
- (d) We enclose all the required pre-qualification data format and all other documents and supplementary information required for the pre-qualification evaluation.
- (e) We also state that no changes have been made by us in the downloaded tender documents and also understand that in the event of any discrepancies observed, the printed tender document No.MEE/27 /2017/Dy.CME(R&D) is full and final for all legal/contractual obligations (delete if not required).

Date:

Place:

Name of the Applicant : \_\_\_\_\_

\_\_\_\_\_  
Represented by (Name & capacity)

\_\_\_\_\_

\_\_\_\_\_

Form No. 2

**SPECIMEN LETTER OF AUTHORITY FOR SUBMISSION OF BID**  
(To be executed on Rs.100/- non-judicial Stamp Paper)

To

The Chief Mechanical Engineer,  
Chennai Port Trust,  
Chennai - 600 001.

Dear Sir,

We----- do hereby confirm that Shri -----(Name, designation and Address) is/ are authorized to represent us to bid, negotiate and conclude the agreement on our behalf with you against Tender No. ----- and his specimen signature is appended here to..

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

We understand that the communication made with him by the Employer/ Board shall be deemed to have been done with us in respect of this Tender.

***[specimen signature]***

Yours faithfully,

Signature:

Name & Designation:  
for & on behalf of:

### Form No. 3

#### **SPECIMEN FOR FORM OF BID**

*(To be executed on bidder's letter head)*

*[The Tenderer shall fill in this Form in accordance with the instructions indicated No alterations to its format shall be permitted and no substitutions shall be accepted The Form shall be submitted in both the **Techno- Commercial and Price Bids separately.**]*

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

Tender No.: *[insert Tender number and Title ]*

To

The Chief Mechanical Engineer  
Chennai Port Trust,  
Chennai – 600 001.

We, the undersigned, declare that:

We have examined and have no reservations to the Tendering Documents, including Addenda No.: *[insert the number and issuing date of each Addenda, Clarifications issued after Pre-bid meeting along with Minutes];*

We offer to execute the work in conformity with the Tendering Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements *in accordance with the tender document bearing no. {insert Tender no.};*

The total price of our Tender, excluding any discounts offered in item (d) below, is: *[insert the total Tender price in words and figures, indicating the various amounts and the respective currencies]; [in case of Techno- Commercial offer it shall be mentioned that “as filled in the Price Bid”] and like to avail/ not to avail (**delete whichever not applicable**) the advance in accordance with GCC 15.1;*

The discounts offered and the methodology for their application are:

**Discounts:** If our Tender is accepted, the following discounts shall apply. *[Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies.] [in case of Techno- Commercial offer it shall be mentioned that “ as filled in the Price Bid”]*

**Methodology of Application of the Discounts:** The discounts shall be applied using the following method: *[Specify in detail the method that shall be used to apply the discounts]; [in case of Techno- Commercial offer it shall be mentioned that “as filled in the Price Bid”]*

Our tender shall be valid for the period of time specified in **ITT Sub-Clause 20.1**, from the date fixed for the Tender submission deadline in accordance with **ITT Sub-Clause 24.1**, and it shall remain binding upon us and may be accepted at any time before the expiration of that period or any extended period in accordance with **ITT Sub-Clause 20.2**;

If our tender is accepted, we commit to obtain a performance guarantee in accordance with **ITT Sub-Clause 40 and GCC clause 17** for the due performance of the Contract, as specified in specimen form for the purpose;

We, including any subcontractors or Contractors for any part of the contract, *[insert the nationality of the Tenderer, including that of all parties that comprise the Tenderer.*

We have no conflict of interest in accordance with **ITT Sub-Clause 4.2;**

Our firm, its affiliates or subsidiaries—including any subcontractors or Contractor s for any part of the contract—has not been declared ineligible by the Port, under laws of India or official regulations, in accordance with **ITT Sub-Clause 4.3;**

We understand that this Tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract Agreement is prepared and executed in accordance with **ITT Clause 39** and as per specimen form the purpose;

We understand that you are not bound to accept the lowest evaluated Tender or any other Tender that you may receive.

We also make specific note clauses of **GCC, SCC, ITT and TIS** under which the Contract is governed.

In case of Out Station Firms, having a branch in India for liaison purposes, please mention the Name of the Contact person and Tel. No., Fax No., and mail- Id and also the Complete Postal Address of the Firm.

We understand that the Communication made with the Firm at (m), by the Port shall be deemed to have been done with us.

Signed: *[insert signature of person whose name and capacity are shown]*  
In the capacity of *[insert legal capacity of person signing the Form of Tender]*  
Name: *[insert complete name of person signing the Form of Tender]*

Duly authorized to sign the Tender for and on behalf of: *[insert complete name of Tenderer]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*



## Form No. 4

### Tenderer Information Form

*[The Tenderer shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]*

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

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

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

1. Tenderer's Legal Name *[insert Tenderer's legal name]*

2. In case of JV, legal name of each party: **[Not applicable]**

3. Tenderer's actual or intended Country of Registration: *[insert actual or intended Country of Registration along with Registration Details]*

4. Tenderer's Year of Registration: *[insert Tenderer's year of registration]*

5. Tenderer's Legal Address in Country of Registration: *[insert Tenderer's legal address in country of registration]*

6. Tenderer's Authorized Representative Information

Name: *[insert Authorized Representative's name]*

Address: *[insert Authorized Representative's Address]*

Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]*

Email Address: *[insert Authorized Representative's email address]*

7. Attached are copies of original documents of: *[check the box(es) of the attached original documents]*

Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITT Sub-Clauses 4.1 and 4.2.

In case of government owned entity from India, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITT Sub-Clause 4.4

PAN NUMBER

GST Registration Number

## **Price Schedule**

**'Schedule A1'**

**(Please quote your Rates in the BOQ available in the e-Procurement Portal  
eprocure.gov.in)**

PART - 2

# Supply Requirements

## **Section V**

### **Schedule of Requirements**

#### **'Schedule – A'**

**'Schedule – A'**  
**TECHNICAL SPECIFICATION**

**(1) GENERAL:**

Chennai Port Trust proposes to procure One No. Truck Mounted Fog Cannon machine suitable to suppress the air borne fine dust of coal, lime stone, clingers, fertilizer etc., while handling and stacking of Cargo inside the Chennai port area as per detail specification.

**(2) SCOPE OF WORK:**

The Scope of Work includes Supply, Installation, Testing and Commissioning of One No.Truck Mounted Fog Cannon Machine with 2 years free Guarantee Period in Chennai Port Trust.

**(3) SPECIFICATION OF TRUCK MOUNTED FOG CANNON:**

**I. CONDITIONS OF SUPPLY:**

- a) The proposed Fog Cannon shall be “State-of-the-art” Unit for dust suppression.
- b) Should be capable of suppressing air borne dust generated from different types of materials including fine & micro fine dust in open areas / yards / railway sidings / berths, sheds, etc.
- c) Should be capable of suppressing air borne dust without the use of any surfactants of chemicals.

**II. FOG CANNON:**

- 1. The Fog Cannon shall be fitted with required Nozzle, Gun, High speed Fan, Rotating Mechanism, Pump Set and Internal connections etc.
- 2. The Cannon shall be equipped with required number of **SS316 or higher grade Fog nozzle** system in such a way to get maximum dispersal of Fog for effective dust suppression.
- 3. The throw range of the Fog should be more than 40 Mtrs under no wind conditions by providing suitable arrangements like turbine electrical motor etc.
- 4. Finest Fog of direct pressure nozzle shall produce high percentage of droplets in the range of 25-200 microns.
- 5. The system shall have water consumption in the range of **40-125 litres per minute** The same shall be adjustable and can be used according to site conditions.
- 6. The system shall have an automatic pump protection system when it runs dry.

7. The system shall have facilities of:
  - a) pitching angle  $-5^{\circ}$  to  $+40^{\circ}$
  - b) The system shall have the facility to rotate approximately 320 degrees for all round spraying with a provision to set the degree of rotation as per site requirement. The vertical tilting facility can be manual and the horizontal rotation shall be automatic.
8. The Nozzles in the system shall be free from entering of sediments, mud, dust particles etc., with suitable filter arrangements for easy operation and maintenance.
9. Shall have the facility to operate the Fog Cannon both by internal and external power sources.
10. The fitment of nozzles will be such that it can be easily removed and cleaned within short time using regular tools and should come with nozzle protection caps.
11. Shall have protection mesh cover at the end of the barrel near the fan to avoid accidents.
12. Shall be provided additionally with water hoses of suitable size and length with quick fix coupling arrangements for easy connection & dismantling for manual operations in case of any emergency.
13. The Fog Cannon shall be designed in such a way that it is suitable for continuous operations.

**III) CAB Chassis:**

1. Suitable CAB Chassis to accommodate the Fog Cannon, DG Sets, Water Tank of capacity not less than 8,000 litres capacity and Sprinkler arrangements shall be supplied with suitable Engine.  
The Make of Cab Chassis shall be from any one of the following:  
Eicher / TATA Motors / Ashok Leyland.
2. The Truck shall be in the name of Chennai Port Trust and the necessary registration at Tamil Nadu shall be arranged by the bidder and expenses shall be to bidders account.
3. The Truck shall comply BS-IV norms.

**IV) WATER TANK:**

1. The Water Tank shall be designed and fabricated as per latest IS relevant Standards to have not less than 8,000 Ltrs capacity.
2. Manhole opening and external fitting such as ladder, cat walk etc., to be provided

**V) DG SET:**

1. *Suitable rating DG Set with Alternator and all other arrangements to take the load of Fog Cannon and Pump Sets in **acoustic enclosure** as per the standards shall be fitted firmly on the chassis unit.*
2. Supplier shall furnish complete & satisfactory type test certificate (TTC) for Engines. Alternator complete with enclosures to be used by them for each rating of the items clearly identifying make, model & ratings of the item tested. The TTC shall be preferably from any Govt. Lab, Tests conducted at the firm's premises shall also be acceptable.
3. Unless otherwise specified, all equipments covered by this specification shall be designed, manufactured, tested and installed as per the **latest Indian Standard Specifications / IEC standards.**
4. Supplier shall furnish copy of CPCB approval certificate from an authorized Agency for emission norms for their Engine. Noise Level norms for DG Set shall be furnished along with tender as well as at the time of pre-despatch inspection.
5. Make: Kirloskar / Cummins / Greaves / Ashok Leyland

**VI) CONTROL PANEL:**

The Control Panel shall be fabricated from CRCA (Cold Rolled Carbon Annealed) sheet steel of minimum 2 / 2.5 mm thick duly pre treated and aesthetically finished. The control panel shall be totally enclosed, dust and vermin proof integral type with IP-53 degree of protection as per IS Standards with latest amendments. The Control panel shall have all the in-built instruments like digital voltmeter, digital ammeter, frequency metre, digital energy metre, push button switches, pilot lamps, MCCB / RCCB, Complete Battery Charger etc.

**VII) HIGH PRESSURE PUMP:**

1. Suitable High pressure pump Set with energy efficient motor to be fitted of size 2"x1 1/2", Head:15-27Mtr, 2900rpm, 3Phase, discharge:450-150m<sup>3</sup>/hr.
2. Fibre hose with end fittings shall be provided of length 15mtrs.

**VIII) REAR SPRINKLERS:**

1. 2 Nos. Rear Sprinklers shall be provided for sprinkling of water on the roads.
2. Shall have separate valve to control the flow of water.
3. Shall have the facility to operate the Rear sprinkler by the truck driver from the driver cabin itself.

CHIEF MECHANICAL ENGINEER

# **PART 3**

# **CONTRACT**



**Section VI**  
**General Conditions of Contract**  
**Table of Clauses**

1. Definitions
2. Contract Documents
3. Fraud and Corruption
4. Interpretation
5. Language
6. Joint Venture, Consortium or Association
7. Eligibility
8. Notices
9. Governing Law
10. Settlement of Disputes
11. Scope of Supply
12. Delivery and Documents
13. Contractor 's Responsibilities
14. Contract Price
15. Terms of Payment
16. Taxes and Duties
17. Performance Guarantee
18. Copyright
19. Confidential Information
20. Subcontracting
21. Specifications and Standards
22. Packing and Documents
23. Insurance
24. Transportation
25. Inspections, tests, taking over and commissioning
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28. Patent Indemnity
29. Limitation of Liability
30. Change in Laws and Regulations
31. Force Majeure
32. Change Orders and Contract Amendments
33. Extensions of Time
34. Termination
35. Assignment
36. Export Restriction
37. Site Activities
38. Employer's Decision
39. Employment of Employer's Personnel
40. Licenses

## Section VI

### GENERAL CONDITIONS OF CONTRACT

#### 1.0 Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

**“Employer”** means the Board of Trustees of Port of “Chennai Port Trust” or its representatives or *Chief Mechanical Engineer* or any other person or firm nominated by the Employer or as specified in SCC.

**s “Contract”** means the Contract Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.

**“Contractor”** means the natural person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been accepted by the Employer and is named as such in the Contract Agreement or his representative who is duly authorized to deal with the Contract.

**“Contract Documents”** means the documents listed in the Contract Agreement, including any amendments thereto.

**“Contract Price”** means the price payable to the Contractor as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.

**“Day”** means calendar day.

**“Completion”** means the fulfillment of the supply of Goods and Related Services by the Contractor in accordance with the terms and conditions set forth in the Contract.

**“Commercial Use”** means, use of Goods, which the contractor contemplates or of which it is commercially capable after enacting at Project site.

**“GCC”** means the General Conditions of Contract.

**“Goods”** means all of the commodities, raw material, machinery and equipment, and/or other materials that the Contractor is required to supply to the Employer under the Contract.

**“Employer’s Country”** is INDIA.

“**Tender**” means the offer of the Contractor along with all other relevant documents as referred to in the Contract.

“**Related Services**” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Contractor under the Contract.

“**SCC**” means the Special Conditions of Contract.

“**The Project Site,**” where applicable, means the place named in the SCC and in pursuant to ITT clause 14.5 a (iii).

“**Engineer**” means Employee of Employer or any other person or firm, nominated by the Employer or as specified in **SCC**.

## **2.0 Contract Documents**

**2.1** Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

## **3.0 Fraud and Corruption**

The Employer as well as Tenderers, Contractor, Sub-Contractors and Consultants observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Employer: **defines, for the purposes of this provision, the terms set forth below as follows:**

“**Corrupt practice**” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution; and

“**Fraudulent practice**” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;

“**Collusive practice**” means a scheme or arrangement between two or more Tenderers, designed to establish Tender prices at artificial, non competitive levels; and;

“**Coercive practice**” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;

will black list a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded, if it at

any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing and

will have the right to require that Contractors to permit the Employer to inspect their accounts and records and other documents relating to the Tender submission and contract performance.

#### **4.0 Interpretation**

4.1. If the context so requires it, singular means plural and vice versa.

#### **4.2 Entire Agreement**

The Contract constitutes the entire agreement between the Employer and the Contractor and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

#### **4.3 Amendment**

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

#### **4.4 Non waiver**

Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### **4.5 Severability**

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

#### **4.6 Employer's Lien**

The Employer shall have lien on and over all or any money that may become due and payable to the contractor under those present and/or also on and over Performance Guarantee lodged under this contract which may become payable to the contractor under the conditions on that behalf herein contained for or in respect of any money of any set of all or any of these moneys or Performance Guarantee against any debit 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.

#### **4.7 Execution**

The contractor/contractors shall and will in consideration of the payment to be made to him/them as hereinafter provided construct, execute, and to the works described in the specifications and in the manner and upon the terms set forth in the specification and in the manner and in accordance with the drawings at the respective rates entered in the Price Schedule in accordance with such other drawings and instructions as may pursuant to the provisions hereinafter contained from time to time be pointed out, furnished and given to him/them by the Employer and/or the Engineer and under the subject to the terms, stipulations and provisions of Contract.

#### **5.0 Language**

- 5.1. The Contract as well as all correspondence and documents relating to the Contract exchanged by the Contractor and the Employer, shall be written in "ENGLISH". Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Contractor.

#### **6.0 Joint Venture, Consortium or Association**

Not Applicable.

## **7.0 Eligibility**

- 7.1 A Contractor or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

## **8.0 Notices**

- 8.1. Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

## **9.0 Governing Law**

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of India, unless otherwise specified in the **SCC**.

## **9.2 Dock Safety**

For the work carried out within dock area in the vicinity of any wharf or quay, the contractors shall abide by all the provisions of the Dock Workers (Safety, Health & Welfare) Regulation 1990.

## **9.3 Labour/ Minimum wages**

a) The contractor or his sub-contractors shall not employ a young child who has not completed his fifteenth year of age. He/They shall also not employ an adolescent who has not completed his eighteenth year unless he is certified fit for the work as an adult as prescribed under Clause (b) of sub-section (2) of section 69 of the Factories Act, 1948.

b) The contractor or his sub-contractors shall also see that all the provisions set forth under the Minimum Wages Act as amended from time to time are fully complied with by him/them and shall maintain necessary registers and records for payment of wages, overtime, etc. made to his/their workmen as required by the Conciliation Officer (Central), Ministry of Labour, Government of India or such authorised persons appointed by Central or State Government.

c) The contractor/contractors shall also see that the provisions regarding employment of young persons covered by the Employment of Children Act, 1938 and the Factories Act, 1948 as amended from time to time shall be fully complied with.

d) Notwithstanding anything herein contained the contractor shall comply with all the provisions of the contract labour (Regulation and Abolition) Act, 1970 and Rules and Regulations made there under as amended from time to time if applicable.

e) The rates quoted by the contractors in the Price Schedule shall be deemed to include expenses whatsoever that the contractor may be required to incur for compliance with the provisions of the above Acts.

f) In pursuance of Section 21 of the above Act and Rule 25(2)(V)(A) framed thereof, the Tenderers should note that in cases where the workmen employed by them to perform the same and similar kind of work as the workmen directly employed by the Employer, the wage rate of all category of workmen shall be in accordance with the statement of the Employer's Schedule of Rates revised from time to time. The wage rates in respect of categories of workmen which are not included in the Employer's Schedule shall not be less than those specified in the Schedule of "Fair Wages". The current statement of the Employer's Schedule of Rates is annexed hereto.

g) The contractor shall make his own arrangements for the engagement of all labour, preferably local.

h) The Contractor shall also comply fully with the provisions of the payment of Wages Act, 1936.

i) If any enhancement in the rates of Wages become payable as a result of the implementation of the Chief Labour Commissioner's interpretation of the Contract Labour (Regulations and Abolitions) Central Rules, 1971 including an increase of the Wages, the same shall be borne by the contractor/contractors. The contractor shall be responsible for the observance by his sub-contractors, of the foregoing provisions/precautions.

j) The contractor shall make necessary arrangements for the representative of the Employer and/or his representative to witness the payment made by the Contractor to his labourers. The contractor shall also submit periodical returns of labour employed by him and wages paid, to the Employer's representatives.

#### **9.4 Fair wages :**

a) The contractor shall pay the labourer 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 payable to the different categories of

labourers. However, subject to the other provisions of any other law for the time being in force in the country, the minimum rates of wages for any person/persons below 18 years of age and for disabled persons be 70% respectively of the rates payable to adult workers of the appropriate category.

b) The Contractor shall notwithstanding the provision of any contract to the contrary cause to be paid in fair wages to the labourers directly engaged on the works including any labour engaged by the sub-contractors in connection with the said work, as if the labourer had been immediately employed by him.

c) 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 Employer.

d) Wages book and wage slips

The contractor shall maintain:

X) A wage book of each worker in such forms 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 No. 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 an indication in each case of the ground for which the deductions are made.
- vi) Wages actually paid for each wage period.

Y) A Wage slip for each worker employed on work provided that the Employer may grant exemption from the maintenance of the wage slips, if in his opinion not more than 19 persons are likely to be employed directly or indirectly on the work but in any case he will have to maintain wage books as specified in Clause.

**e) 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.



**f) 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 to the Employer or any other person authorized by him on his behalf.

**(g) Powers of the Employer to make Investigation/enquiries**

The Employer or any other person authorized by him on his behalf shall have power to make enquiries with a view to ascertaining the enforcement due and proper observance of the "Fair Wages 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.

The Employer 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 by 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.

**(h) Representation of parties**

a) A worker shall be entitled to be represented in any investigation or enquiry under this clause by:

(i) An Officer of registered Trade Unions of which he is a member. Any Officer of Federation of Trade Union to the Trade Union referred to in the previous sub-clause is affiliated. Where the worker is not a member of any registered Trade Union, or of any approved Trade Union by an Officer of a registered Trade Union connected with industry in which the worker is employed.

b) An employer shall be entitled to be represented in any investigation or enquiry under these regulations by an officer of an Association of Employers' of which he is a member.

c) No party shall be entitled to be represented by a legal practitioner in any investigation or enquiry under these regulations.

**9.5 Work men compensation**

The contractor shall indemnify the Employer in the event of the Trustees being held liable to pay compensations for injury to any of the contractor's servants or workmen under the Indian Workmen's Compensation Act, 1923 as amended from time to time and shall take out an Insurance Policy

covering all risks under the Act and shall keep the same renewed from time to time as necessary for the duration of the contract and produce the same to the Employer On Demand whenever so required.

## 9.6 ESI Clause

The details of employees proposed to be engaged shall be furnished to this office before the commencement of the work.

- (a) As per the Govt. Notification dated 20.07.2009, Chennai Port Trust has registered under the ESI Act on 26.09.2012 with ESI Corporation and provision of ESI Act, 1948 are applicable to Chennai Port Trust, a Social Security Act, is applicable to Factories using power and employing 10 or more personnel and establishment employing 20 or more persons and drawing wages/salary upto Rs.15,000/- per month. Workers covered under ESI Act, are entitled for full medical care for self and family. Besides, cash benefit in the event of sickness, maternity and employment injury. Accordingly, the contractual/casual employees drawing wages upto Rs.15,000/- per month employed either directly by Port Trust or through contractor are covered under ESI Act, 1948. It is obligatory on the part of the employer to calculate and remit ESI contribution comprising of employers' share of 4.75% plus employees' share of 1.75% which is payable on or before 21<sup>st</sup> of the following month, to which the salary relates.
- (b) In case of Contractor employs more than 20 employees, they should register their name with ESI as per ESI Act, 1948 and obtain ESI Code. Both Employers share of 4.75% and Employees contribution of 1.75% (recovered from employees), totally 6.5% to be paid as contribution to ESI in their Code on or before 21<sup>st</sup> of following month to which the salary relates and acknowledgement for the same shall be submitted to the Port while claiming the bill. The bill without the acknowledgment of ESI contribution will not be entertained. In case the contractor has not paid the ESI contribution same will be recovered in the running bill and paid to the ESI Corporation in contractor's code. The delay in payment of contribution payable under the Act may be recovered as an arrear of Land Revenue.
- (c) In case the contractor employs less than 20 employees, the list of employees' names, their father's name, identification proof, one passport photo shall be submitted to the Port Trust. The contribution of ESI amount, both Employers share of 4.75% and Employees contribution of 1.75% (recovered from Employees salary), totally 6.5% shall be paid by the Contractor in the Chennai Port Trust Code on or before 21<sup>st</sup> of the following month to which the salary relates or otherwise payment to the contractor will be withheld. If the contractor fails to comply with the above instruction, then the Principal Employer (Chennai Port Trust) will make payment to the ESI Corporation. Such amount will be deducted from any amount due to the contractor. The delay in payment of contribution payable under the Act may be recovered as,

then either the Employer or the Contractor may give notice an arrear of Land Revenue.

(d) i) As per the above government Notification i) All intending tenderer at the time of Tender shall disclose all necessary documents as to whether they are covered under ESI Act or not.

ii) In case they are covered under ESI Act, they have to furnish the details of registration.

iii) In case the tenderer does not possess ESI Registration at the time of participation in the Tender, then they should obtain registration under ESI Regulations before award of the work by Chennai Port Trust and submit the same within 30 days from the date of issue of work order. Any payment towards the work order will be made only after the ESI registration.

iv) The Tenderer shall submit his first bill together with evidence of having obtained registration under ESI regulations and only then the bill will be processed for payment. Subsequently, the Tenderer should periodically submit to Chennai Port the Form 6 prescribed under ESI Regulations along with the proof for having remitted his dues under ESI Regulations in respect of the workers / labours employed for the work awarded by Chennai Port to facilitate making payment for the bills of the Contractor.

v) In case, the Tenderer is not covered under ESI Act or exempted, they would furnish necessary documents along with an affidavit in original affirming before a first class Judicial Magistrate in a Non Judicial Stamp Paper worth Rs.20.00 to that effect.

vi) In case they are not covered under ESI Act, they must additionally indemnify ChPT against all damages & accident occurring to his labour in a Non – Judicial Stamp paper worth Rs.100/-.

## **10.0 Settlement of Disputes**

10.1 The Employer and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **SCC**.

- 10.3 Notwithstanding any reference to arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
  - (b) the Employer shall pay the Contractor any amount due the Contractor.

### **11.0 Scope of Supply**

- 11.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

### **12.0 Completion Period:**

- 12.1 The work shall be completed within 90 days from the date of acceptance or 7<sup>th</sup> day of issue of work order, whichever is earlier.
- 12.2 The Quality Assurance Programme (QAP) will be submitted to the Trust within 15 days from the receipt of LoA.
- 12.3 The Test Trials of the Fog Cannon Machine should be done in the presence of Trust Engineers' as per the Technical Requirements for acceptance.

### **13.0 Contractor's Responsibilities**

- 13.1 The Contractor shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.

#### **13.2 Phasing of work:**

The contractor will be required to furnish a phased programme of the works as to how he intends to complete the work to the Employer immediately on receipt of the work order and to proceed with the preliminary preparations. The contractor shall indicate separate definite times for completion of various parts of the work. He will be required to adhere to such programme so as to complete the entire work within the stipulated completion period. Within fifteen days from the receipt of acceptance of offer letter, the successful Tenderer/ contractor shall submit a detailed computerized squared network chart (PERT/CPM Chart) with month wise milestones indicating clearly the physical and financial progress of the work free of cost to the Employer. The Employer will monitor the progress of work in accordance with the chart so submitted. Should there be any sort of delay attributed to any reason

whether on part of this Employer or on the Contractor; the contractor shall make available a revised squared Network Chart PERT/CPM with original actual scheduled dates and fresh revised dates separately for each milestone as and when requested by the Employer free of cost. This arrangement will continue till the deliveries, erection and commissioning are enacted and the contract work completed. The PERT/CPM chart should be computerized and easily reproducible/modified. The soft copy of the PERT/CPM network should also be made available to the Employer free of cost along with the prints of the chart.

#### **14.0 Contract Price**

Prices charged by the Contractor for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Contractor in its Tender, with the exception of any price adjustments authorized in the **SCC**.

Normally no variable rates in the Price Schedule will be entertained. However, if any Tenderer insists on such provision whereby variations in costs of controlled materials only over or under certain basic rates are intended to be on Employer's account, all such basic rates should be submitted with the tender. A suitable clause will then be inserted in the Formal Agreement mentioned in ITT Clause 39 whereby the successful Tenderer shall be required to obtain prior written approval of the Engineer for any expenditure against which the Employer may become liable for extra payment, shall be required to submit to the Engineer such periodical statements and documentary evidence as may be directed by him from time to time. The books of the successful Tenderer shall be open for inspection by a responsible officer of the Employer. Variation in the rates of other materials and labour will not be entertained.

#### **15.0 Terms of Payment**

- 15.1 Chennai Port will release the payment within 30 days after successful completion of 'Supply, Installation, Testing and Commissioning of 1 No.Truck Mounted Fog Cannon Machine at Chennai Port and submission of all relevant documents.
- 15.2 Income tax @ 2% with applicable surcharge & education cess shall be levied U/S 194(c) of Income Tax Act 1961.
- 15.3 The payment will be made on production of pre-receipted bill in the Trust's format and being certified by the Employer's representatives.
- 15.4 Also Copies of Self attested Statutory documents as applicable such as ESI Registration or exemption certificate as per ESI Clause in the Tender Document, GST Registration Number, EPF., any other Statutory documents for payment.

## **16.0 Taxes and Duties**

- i) The firm shall furnish the Tax Invoice as per GST Act/Rules in the name of Chennai Port Trust by mentioning the GSTIN of ChPT and indicating amounts of GST separately. The GSTIN of Chennai Port Trust is 33AAALC0025BIZ9.
- (ii) The firm shall remit the GST amount in the invoice to the Government within the due dates and also file the returns by mentioning the GSTIN of ChPT to enable ChPT to avail applicable input tax credit.
- iii) Chennai Port Trust shall reimburse the GST component mentioned in the invoice to the Contractor/Supplier/Vendor only to the extent and on reflection of the same under the GSTIN of ChPT in the GST Web Portal.
- iv) Applicable statutory recoveries including TDS under Income Tax, TDS under GST etc., will be deducted/recovered while accounting for or making payments to the Contractor/Supplier/Vendor as per the applicable laws.

### **16.1 Financial Evaluation:**

- i) The Financial evaluation of the Tender will be based on the Base Price of Supply of Goods or Services or both excluding the applicable GST.
- ii) All the Prices shall be firm and the rate and amount of applicable GST shall be mentioned properly as per BOQ(Price Schedule)
- iii) HSN Code / SAC and the rate of applicable CGST / SGST / IGST as the case may be, to be filled up in the BOQ for each item by the bidder

## **17.0. Performance Guarantee / Security Deposit**

- 17.1 The Security Deposit of 10% of the Contract Value shall be submitted by the Successful bidder within 21 days from the date of acceptance or 7<sup>th</sup> day of the issue of Work Order.
- 17.2 Performance Security be submitted as Account Payee Demand Draft, Fixed Deposit Receipt from a Commercial Bank, Bank Guarantee from a Commercial Bank or online payment in favour of Chairman, Chennai Port Trust payable at Chennai.
- 17.3 In case the Contractor fails to remit SD within the stipulated period, the department shall initiate action for forfeiture of EMD within a period of 15 days.
- 17.4 If the department decided to condone the delayed payment of SD with justification, the SD have to be remitted along with interest @ 18% provided

the maximum period of condonation does not exceed 15 days from the stipulated period.

- 17.5 Security Deposit paid in any mode except as specified above will not be taken into account and the concerned tender will be rejected.

## **18.0 Copyright**

- 18.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor, or if they are furnished to the Employer directly or through the Contractor by any third party, including Contractors of materials, the copyright in such materials shall remain vested in such third party.

## **19.0 Confidential Information**

- 19.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor such documents, data, and other information it receives from the Employer to the extent required for the Subcontractor to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Contractor under GCC Clause 19.
- 19.2 The Employer shall not use such documents, data, and other information received from the Contractor for any purposes unrelated to the contract. Similarly, the Contractor shall not use such documents, data, and other information received from the Employer for any purpose other than the performance of the Contract.
- 19.3 The obligation of a party under GCC Sub-Clauses 19.1 and 19.2 above, however, shall not apply to information that:

now or hereafter enters the public domain through no fault of that party;

can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

19.4 The above provisions of GCC Clause 19 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

19.5 The provisions of GCC Clause 19 shall survive completion or termination, for whatever reason, of the Contract.

## **20.0 Sub-contracting**

20.1 The contractor shall notify the Employer in writing of all the sub-contracts awarded under the contract, if not already specified in the tender, such notification, in the original tender or later shall not relieve the contractor from any of its obligations, duties, responsibility, liability under the contract.

20.2 Sub-contractor will comply with the provisions of GCC clauses 3, 7, 19.

## **21.0 Specifications and Standards**

### **21.1 Technical Specifications and Drawings**

The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section V, Schedule of Requirements and when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.

The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Employer, by giving a notice of such disclaimer to the Employer.

(c)Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Employer and shall be treated in accordance with GCC Clause 33.

21.2 In case the contractor fail to Supply the said materials as herein provided or in case he/they shall fail to replace any parts of any materials that may be rejected as herein provided with other of approved quantity within two weeks from the date of such rejection, the Engineer shall be at liberty forthwith to procure and obtain the same in the open market and the cost thereof and all expenses thereby incurred shall be charged to the contractor or the Engineer may fix such other subsequent date or dates



as he may think fit by which the delivery of the said material shall be completed. If the rejected materials be not forthwith removed, the Engineer shall be at liberty to charge ground rent for such time as the material shall lie on the site materials and keep a watchman at night or remove the materials to less inconvenient site (charging rent for new site) and all expenses thereby incurred in connection with the rejected materials shall be charged to the contractors.

21.3 If during the progress of the work, the Employer and/or the Engineer shall decide and notify in writing to the contractor that contractor has executed any unsound or imperfect work, or has supplied anything inferior in quality to that specified, the deficiencies shall at his own expenses, within seven days of his receiving the notice or otherwise within such time as may be reasonably necessary for making it good, proceed to alter, reconstruct or remove such work, or Supply fresh materials upto the standard of the specifications

21.4 The specifications and drawings are to be considered as explanatory to each other and should anything appear in the one that is not described in the other no advantage shall be taken of any such omission. Should any discrepancies or inconsistencies however appear or should any misunderstanding arise as to the meaning and import of these specifications or drawings or as to the dimensions or the quality of the materials or due to proper execution of the works as to the measurements or quality and valuation of the works executed under this contract or as extras thereupon the same shall be explained by the Employer and/or his representatives whose explanation shall be final and binding upon the contractor/contractors who shall execute the work according to such explanation and also to liaise with the inspecting agency at the manufacturing site and point of delivery site and without extra charge or deduction to or from the price specified in Price schedule and shall also do all such works and things as may be necessary for the proper completion of works as implied by the specifications and drawings even though such works and things are not specifically shown and described therein. The Tenderers should visit the site and make themselves thoroughly acquainted with the nature and requirement of work before finalizing the designs and detailed Engineering.

## **22.0 Packing and Documents**

22.1 The Contractor shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 22.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the Employer.
- 22.3 All works required by the Employer and/or the Engineer to be packed or protected for transportation to India, shall be securely placed and protected by the contractor. Packing cases shall be of a size convenient for shipment and cases containing easily damageable articles shall be bind as specified. The contractor will be held responsible for the inefficiency of the packing and protection.
- (a) The cases, crates and packages shall be permanently branded, not painted with the shipping marks. The marking shall be carried out with a view to the mark remaining unobliterated when the consignment reaches destination but as a further precaution, a reproduction, of the shipping marks shall be placed inside each case, crate and packages.
- (b) Packages or bundles, which cannot be permanently branded, shall have metal label, with the above particulars stamped or attached to them by strong wire.

### **23.0 Insurance**

- 23.1. Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be insured fully against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance in the manner specified in the **SCC**.
- 23.2 The contractor shall insure with the General Insurance Corporation of India or any other insurance company approved by IRDA or its branches in appropriate foreign currency, if any, subject to the conditions that the premium will be payable to the corporation in Rupees such materials, tools, plants and things ordered from the works till they are delivered at site and then those for the works may for the time being on site and shall keep them insured in his own name and that of the Employer against destruction or damage by accident, fire, flood and tempests for the full value of such materials, plants and things until the same to be taken over by the Employer under GCC Clause 25 and he shall from time to time, when so, required by the Employer produce the policy and receipt for the premium. All money received under any such policies shall be applied in or towards the reconstruction or preparation of the materials, plant and things destroyed or damaged, but this provision shall not affect the contractor's liabilities under contract.

## **24.0 Transportation**

The firm shall bear all the cost involving the transportation of all the materials and spares to the site.

## **25.0 Inspection Tests, Taking over and Commissioning**

- 25.1 The Trust Engineering In Charge will carryout the tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 25.2 The inspections and tests may be conducted on the premises of the Contractor or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in India as specified in the **SCC**. Subject to GCC Sub-Clause 25.3, if conducted on the premises of the Contractor or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Employer.
- 25.3 The Employer or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 25.2, provided that the Employer bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses or otherwise specified in **SCC**.
- 25.4 Whenever the Contractor is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Employer. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer or its designated representative to attend the test and/or inspection.
- 25.5 The Employer may require the Contractor to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impede the progress of manufacturing and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected unless otherwise specified in **SCC**.
- 25.6 The Contractor shall provide the Employer with a report of the results of any such test and/or inspection.
- 25.7 The Employer may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Contractor shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost

to the Employer, and shall repeat the test and/or inspection, at no cost to the Employer, upon giving a notice pursuant to GCC Sub-Clause 25.4.

- 25.8 The Contractor agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Employer or its representative, nor the issue of any report pursuant to GCC Sub-Clause 25.6, shall release the Contractor from any warranties or other obligations under the Contract.
- 25.9 The contractor/contractors shall furnish at his/their own cost electrical instruments, tools, measuring tapes and other implements and labour required for the proper setting out of the work and shall set out and be entirely responsible for such setting out. He/They may have obtained the lines and lay outs from the Employer or his representatives and shall at once alter or amend any mistake or deficiencies in such setting out being ordered to do so by the Employer and/or his representatives. The contractor/ contractors shall provide all men, materials, appliances and things which the Employer or his representatives may require for measuring or inspecting the work
- 25.10 The supply, delivery and installation of the items at site shall be deemed to have been accepted by the Employer when the same shall have been stored and erected on site and the Employer shall have certified in writing that it has fulfilled the contract conditions and such certificates shall not be unreasonably withheld, or shall the Employer delay the issuing of such certificates on account of minor omissions, or defects, which do not affect the commercial use, without any serious risk, of the supplies, provided always that the contractor undertake to make good such omissions and defects at the earliest possible moment
- 25.11 In the event of the equipment/plant put into commercial use before the actual completion of works as per the contract, the contractor shall be eligible for Substantial Completion. However, a pre-defined period (say 2 months) shall be granted to the contractor to complete the balance minor works as per the list of pending works as on the date of substantial completion. If the contractor completes all the works within the predefined period, the date of taking over shall be the date of substantial completion. Otherwise, date of taking over shall be date of completion of all works.
- 25.12 All materials, plant and other things, the Supply of which form the part of the contract work shall on delivery at Project Site become the property of the Employer. All the contractor's materials, brought to and delivered at site for use of the contract works, shall from time of their being so brought, vest in and be the property of Employer and shall be used solely for the purpose of the works and shall not on any account be removed or taken away by the contractor or any other person without the express permission in writing of the Engineer but the contractor shall nevertheless be solely liable or responsible for the loss or destruction thereof or damage which

may be caused thereto during the continuance of this contract. Upon the completion of the contract the property, if any, surplus of such materials, shall revert to the contractors or unless they shall be due owing to or accruing or to accrue to the Employer from the contractors any money under, or in respect of or by reason of the contract in which case the Employer shall be at liberty to sell and dispose of such surplus materials as they shall think fit and to apply the proceeds in or towards the satisfaction of such money or moneys so due owing to or accruing or to accrue to them as aforesaid.

- 25.13 The Goods, whether Installed or not, shall immediately, in consideration of Payment of the First Installment of the Contract Price to the Contractor by the Employer; provided always that the Contractor shall have a particular possessory lien on the Goods, to the extent the value thereof exceeds the total value of the Installment Payments made by the Employer to the Contractor
- 25.14 Notwithstanding the above provision, the contractor shall be responsible for all damages to and loss of all aforesaid items furnished by the Contractor and any item furnished to the Contractor by the Employer to enable the Contractor to complete the Installation and for all temporary structures facilities and for all parts of the installation completed or in progress until the certificate of final taking over has been issued in accordance with GCC clause 25.10 and 25.11
- 25.15 If the contractor neglects to make the tests on completion within the time stipulated by the contractor, the Employer shall nevertheless have the right of using the installations at the contractor's risk until the 'test on completion' is successfully carried out.
- 25.16 All the contract works until taken over by the Employer in accordance with GCC Clause No. 25.10 and 25.11 shall stand at the risk of the contractor who shall be responsible for and make good at his own cost all loss or damage caused by or due to fire, weather or any other cause whatsoever and the contractor shall hand over the contract work complete in every respect at the termination of the Agreement.
- 25.17 Until the work shall be or be deemed to be taken over as provided in respective Clause, Employer in respect of all injury to any person or damage to any property of the Employer or of other occasioned by the negligence or default of the contractor or his employees, or sub-contractors or of the Employer' employees, if any, working under the contractor's supervision by defective design or work by the non-compliance by the contractor with the terms of this contract.
- 25.18 The contractor shall indemnify and save harmless the Employer against all actions, suits, demands, claims, costs or expenses arising in connection with injuries suffered by persons employed by the contractor or his sub-

contractors on the work including the Employer' employees, if any, working under the contractor's supervision. The contractor shall during the progress of the contract work insure himself and Employer and keep himself and them insured with the Life Insurance Corporation of India or any other insurance company under IRDA or their branches against all liabilities in respect of such injuries to persons employed as aforesaid and shall at all times when required by the Employer produce the policy for such insurance and the receipts for the last premium payable in respect thereof provided that his obligation to insure shall not apply if the Employer has made other proper and adequate provisions to meet all such liability.

25.19 In the event of any claim being made or action brought against the Employer including the contractor and arising out of the matters referred to and in respect of which the contractor is liable under this clause, the contractor shall be promptly notified thereof and he shall with the assistance if he so requires of the Employer but at the sole expense of the contractor conduct all negotiations for the settlement of the same or any litigation that may arise there from. In such case the Employer shall at the expense of the contractor afford all available assistance for any such purpose.

25.20 All the works shall be carried out under direction and to the satisfaction of the Employer and / or his representative but the contractor shall be responsible for the correctness of the work according to the drawing, excepting such works as have been carried out by the Engineer and/ or his representative.

## **26.0 Liquidated Damages/Late Delivery Charges**

26.1 Except as provided under GCC Clause 31 and 33, if the Contractor fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Employer may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Employer may terminate the Contract pursuant to GCC Clause 34. Contract price shall be inclusive of price plus all taxes and duties payable for computing Liquidated Damages.

## **27.0 Guarantee**

27.1 The Contractor guarantee for all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

- 27.2 Subject to GCC Sub-Clause 21.1(b), the Contractor further warrants that the Goods shall be free from defects arising from any act or omission of the Contractor or arising from design, materials, and workmanship, under normal use in the conditions prevailing in INDIA.
- 27.3 Unless otherwise specified in the **SCC**, the guarantee shall remain valid for twenty four (24) months after the Goods or any portion thereof as the case may be, have been taken over at the Project Site.
- 27.4 The Employer shall give notice to the Contractor stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect such defects.
- 27.5 Upon receipt of such notice, the Contractor shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Employer.
- 27.6 If having been notified, the Contractor fails to remedy the defect within the period specified in the **SCC**, the Employer may proceed to take within a reasonable period such remedial action as may be necessary, at the Contractor's risk and expense and without prejudice to any other rights which the Employer may have against the Contractor under the Contract.
- 27.7 The guarantee period will be effective for a period of twenty four (24) months and it will be in force from the date of final acceptance of the items of work completed under the contract by the Employer and the contractor shall be responsible for any defects that may develop under proper use arising from faulty materials, designs, workmanship in the work but not otherwise and shall at his own cost remedy such defects when called upon to do so by the Engineer who shall state in writing in what respect any portion is faulty.

If it becomes necessary for the contractor to replace or renew any defective portions of the Supply of the items under this clause, the provisions of this clause shall apply to the portions of the Supply so replaced or renewed until the expiry of six months from the date of such replacement or renewal or until the above mentioned period of 24 months, whichever may be later. If any defects are not remedied within a reasonable time, the Employer may proceed to do the work at the Contractors' risk and expenses but without prejudice to any other rights which the Employer may have against the contractor in respect of such defects.

If the replacement or renewals are of such a character as may affect the efficiency of the items Supplied, the Employer and/or the Engineer shall have the right to give to the contractor within one month of such replacement or renewal notice in writing the 'Test on Completion' be made in which case test shall be carried out as provided in accordance with GCC

Clause 25.15 thereof. Should such guarantee not be sustained the cost of the test shall be borne by the contractor.

All inspection, adjustments, replacement or renewal carried out by the contractor during the period referred to in this clause shall be subject to the conditions of this contract which shall be binding on the contractor in all respects during the guarantee and the additional warranty period.

## **28.0 Patent Indemnity**

28.1 The Contractor shall, subject to the Employer's compliance with GCC Sub-Clause 28.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Contractor or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Contractor, pursuant to the Contract.

28.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Sub-Clause 28.1, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

28.3 If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf.

28.4 The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.



## **29.0 Limitation of Liability**

29.1 Except in cases of criminal negligence or willful misconduct,

- (a) the Contractor shall not be liable to the Employer, whether in contract, transport or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and
- (b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Employer with respect to patent infringement

## **30.0 Change in Laws and Regulations**

30.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Tender submission in accordance with ITT clause 24, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of India where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 14.

## **31.0 Force Majeure**

31.1 The Contractor shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

31.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Contractor that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Contractor. Such events may include, but not be limited to, acts of the Employer in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

31.3 If a Force Majeure situation arises, the Contractor shall promptly notify the Employer in writing of such condition and the cause thereof. Unless otherwise directed by the Employer in writing, the Contractor shall continue

to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

## **32.0 Change Orders and Contract Amendments**

32.1 The Employer may at any time order the Contractor through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Employer;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Contractor

32.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Contractor's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Contractor for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Contractor's receipt of the Employer's change order.

32.3 Prices to be charged by the Contractor for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Contractor for similar services.

32.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

- (a) No extras shall be allowed for unless ordered as such in writing by the EMPLOYER and such extras will be paid for at rates and prices to be agreed upon mutually and upon the certification by the Employer or his Representative.
- (b) Any extra expenses in addition to the amount specified in the Price Schedule which may be incurred by the Employer in the performance of the work required owing to the neglect or omission on the part of the contractor/contractors his/their workmen in any of the cases mentioned in this contract shall be deducted from any sums due of which may therefore, become due to the contractor/contractors by the Employer or he/they may be called upon to pay the amount of such extra expenses to such person or persons as the Employer may

appoint to receive the same and in the event of the contractor/contractors failing to make such payment the said amount shall be recoverable from him/them in such manner as the Employer may determine.

32.5 The quantities indicated in the Price Schedule are estimated only and are liable to be altered or omitted to the extent in accordance with ITT clause 37.1 and GCC 33.1. The work shall be measured up to the end of each milestone by the Employer along with the contractor/contractors or any other person or persons appointed on his/their behalf (TPI), such person/persons not being in the service of the Employer. Should the contractor/contractors or any appointed agent on his/their behalf fails/fail to attend on the day or days, fixed by the Employer (of which three days' notice shall be given) for taking measurement the same shall always be confirmed to actual work and for that alone shall the contractor/contractors be allowed to claim. The several works shall be measured by a standard measure without reference to any local custom that may obtain excepting the contrary may be directed in the specifications.

### **33.0 Extension of Time**

33.1 If at any time during performance of the Contract, the Contractor or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Contractor shall promptly notify the Employer in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Employer shall evaluate the situation and may at its discretion extend the Contractor's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

33.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Contractor in the performance of its Delivery and Completion obligations shall render the Contractor liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

### **34.0 Termination**

#### **34.1 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:
  - (i) if the Contractor fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Employer pursuant to GCC Clause 33;

- (ii) if the Contractor fails to perform any other obligation under the Contract; or
  - (iii) if the Contractor, in the judgment of the Employer has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Employer terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Employer may procure, upon such terms and in such manner as it deems appropriate, Goods 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 Goods or Related Services. However, the Contractor shall continue performance of the Contract to the extent not terminated.

#### **34.2 Termination for Insolvency**

- (a) 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.

#### **34.3 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 Goods that are complete and ready for shipment 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 Goods, the Employer may elect:
- (i) 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 Goods and Related Services and for materials and parts previously procured by the Contractor.

In such termination Security deposit will be forfeited.

#### **34.4 Liquidation and Re-Entry**

In the event of the contractor/contractors going into liquidation or passing an effective resolution for winding up or upon the contractor/contractors making an arrangement with or assigning in favour of his/their creditors or upon his/their assigning this contract or upon execution being levied on the contractor/contractors goods or upon the EMPLOYER certifying under his hand and in his opinion the contractor/contractors has/have

Abandoned the contract or Suspended the progress of the work for seven days after receiving from the Employer's written notice to proceed without any lawful excuse under conditions; or

Failed to make proper progress with the work for seven days after receiving from the Employer's written notice to employ more men; or

Failed to remove materials from site or pull down the rebuilt work for seven days after receiving from the Employer's written notice that the said materials or works are condemned and rejected by the Employer under GCC Clause 35, of these conditions; or

Failed to give the Employer proper facilities for inspecting the works or any part of them for three days after receiving from the Employer, written notice demanding the same, or Failed to submit any work or materials to proper test for three days after receiving written notice from the Employer requiring the same; or

Failed to complete all or any part of the work by the time or extended time for completion; or

Failed to complete all or any part of the work by the time or extended time for completion.

Then the Employer may enter upon the site and works and expel the contractor/contractors there from and may themselves use the material and plant upon the premises for the completion of the work and employ any other contractor/contractors to complete or may themselves complete the work, upon such entry the contract shall be determined save the rights and power conferred upon the Employer hereby. The Employer's certificate under this clause shall be conclusive proof as between the contractor/contractors and Employer of the statement contained in it.

#### **35.0 Assignment**

35.1 Neither the Employer nor the Contractor shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

## **36.0 Export Restriction**

36.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Employer, to the country of the Employer, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Contractor from meeting its obligations under the Contract, shall release the Contractor from the obligation to provide deliveries or services, always provided, however, that the Contractor can demonstrate to the satisfaction of the Employer that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Employer's convenience pursuant to Sub-Clause 35.3.

## **37.0 Site Activities**

37.1 The contractor/contractors shall give the customs, State Government, municipal, police, petroleum, road, railway, and all other authorities all notices, etc. that may be required by law and obtain all requisite licences for temporary obstructions, transportation, loading and unloading activities, enclosures, and for any other purposes whatsoever and pay all fees, taxes, duties, and charges which may be leviable on account of his/their own operations in executing the contract. He/They shall make good any damage to adjoining property whether public or private and supply and maintain any flags, horns, sirens, light etc. in whatever manner required in day or at night or for the purposes of warning/indication of work in progress or of imminent danger etc. He shall be allowed rent free the use of such grounds as is available on the site of works as in the opinion of the Employer may be absolutely necessary and on the completion of work or termination of this contract he shall vacate the premises and remove all surplus material.

37.2 The Employer shall indicate the storage space at site, for storing the material but the contractor shall satisfy himself as to the suitability of such sites and protection and such provision shall not release the contractor from liability to make good any loss or damage which may hamper such work until the same shall have been taken over.

37.3 Suitable access to and possession of the site shall be afforded to the contractor by the Employer in reasonable time. In the execution of the work, no persons other than the contractor or his duly appointed representatives, sub-contractor and workmen shall be allowed to do work at site except by the special permission in writing of the Employer and/or his representative.

- 37.4 The contractor shall comply with all precautions as per International Labour Organization (I.L.O.) Convention (No.62) as far as they are applicable to this contract.
- 37.5 The contractor/contractors shall on completion of the work when directed by the Employer remove all plants, tools, materials, and rubbish which may have been used or may have accumulated during the progress of the work, other than those permanently taken into the works of all such rubbish or surplus materials or plants which the Employer may require the contractor/contractors to remove by the contractor or his sub-contractors within twenty-four (24) hours after receipt of written notice from the Employer requiring him/them to remove the same, and in default of compliance with such notice the Employer may forthwith remove all such rubbish or surplus materials or plant at the risk and cost of the contractor/contractors
- 37.6 The contractor will be allowed to tap/use electric power to the extent of as specified in **SCC**, if electric Supply from the Employer's network is available at work site, subject to the contractor's complying with the rules and regulations of temporary load and safety precaution laid down by the Employer from time to time. Use of power is restricted to single phase for electrical drilling machine, temporary lighting and testing of the lighting installation etc. For any other requirements, the contractor shall request the Employer. Upon suitability, the Employer shall provide the same at cost to the Contractor.
- 37.7 No work shall be carried out between sunset and 6.00 a.m. and on Sunday or Employer's holidays except with the previous sanction in writing from the Employer, granting to which will be entirely at his discretion and cannot be claimed by the contractor/contractors as matter of right and the refusal to grant such permission will not be accepted as a ground of excuse for not completing the work within the period hereinafter mentioned.
- 37.8 No living accommodation shall be made available for the contractor's staff and labour. The contractor/contractors shall at his/their own expense provide the necessary transport to and from the site of the work and accommodation for his/their employees, the intention being that the sum named in the tender shall be inclusive of all expenses, whatsoever in connection with the contractor's/contractors' staff and labour force.
- 37.9 Notwithstanding that all reasonable and proper precautions may have been taken by the contractor/contractors at all times during the progress of the work, the contractor/contractors shall nevertheless be wholly responsible for all damages, whether to the works themselves or to any

other Employer's property or to the lives or persons or property of others during the progress of the works and period of maintenance.

- 37.10 The contractor/contractors shall at his/their own cost provide all labour and materials, haulage, stores, consumables, templates, staging, scaffolding, tarpaulins and all plants and tools whatsoever required to carry out and complete the work to the satisfaction of the Engineer and shall fence, with bamboo or other good materials of sufficient strength, all excavation, trenches, open culverts etc. and shall light the same at night and keep sufficient watchmen to the satisfaction of the Engineers at work site. He/They shall construct proper enclosures and fences for the protection and convenience of the work and the public during the progress of work.

The make and brand of the materials offered wherever applicable must be clearly stated and in case of unknown make or brand proper description should be submitted even if not so specified.

The contractor must make his own arrangement for obtaining all the materials required for completing the work. The rates to be entered for the items in the Price Schedule should be inclusive of Supply, manufacture and assembly, testing, completion, delivery, storage at site, installation of new equipment and commissioning of all the works. The contractor/contractors shall make his/their own arrangements to obtain from the authorities concerned the petrol, oils, spare parts etc. required by him for the efficient and regular operation of the transport used by him/them to carry out and complete the work comprised in the contract, without delay whatsoever. The Employer will only issue a certificate if required to the contractor to enable him to request the concerned authorities, to provide all assistance within the law to him/them under this contract. The non-Supply of these materials by the authorities will not be taken as an excuse for not completing the contract within the stipulated period.

- 37.11 The contractor shall employ at least one qualified, experienced and competent representative whose name or names shall have previously been communicated in writing to the Employer and/or his representative by the contractor to supervise the delivery, unloading and storage and carrying out the work and also to liaise with the inspecting agency at the manufacturing site and point of delivery site. The said representative shall be present at site during working hours and any written orders or instructions which the Employer and/or his representative may give to the said representative of the contractor shall be deemed to have been given to the contractor, the said representative or representatives shall arrive at site on a date to be arranged by the Employer and/or his representative. Further all the correspondence pertaining to technical, financial, legal and the other matters shall be addressed to him.



The contractor shall have to execute electrical work of cranes under Supervision of Electrical contractor having valid Electrical contractor License issued by the State Governments of India & work is required to be executed under the Supervisor having Supervisory Certificate of competency issued by the State Governments of GOI & copy of all documents to be submitted to Mechanical Engineer's office. The contractor shall obtain the Electrical inspection Certificate for effective power supply to the machines.

#### **37.12 Employment of Labour**

The contractor/contractors shall employ such sufficient number of trustworthy, skilful and experienced assistants or Supervisors, Foremen, Maistries and Watchmen as may be approved by the Engineer and shall at all times employ a competent, qualified and experienced Engineer and careful and skilled workmen in or about execution of the said work to the satisfaction of the Engineer or any Engineer, Supervisor, Maistry, Watchmen to whom the Engineer and/or his representative shall object to on the ground of bad behaviour incompetence or negligence shall be removed by the contractor/contractors from the work within 24 hours after receipt of written order signed by the Engineer and/or his representative shall be again allowed on the work except with the written permission of the Engineer and/ or his representative. The contractor/ contractors shall arrange to meet the Engineer or his Assistants on the works whenever required.

#### **37.13 Protective Personal Gear Such As Helmet, Face shield, Footwear, Gloves, Etc.,**

The contractor/contractors shall, at his/their own expense, provide footwear and gloves for all labour employed on concrete mixing work, gas cutting, welding etc, and all other types of work involving the use of tar and cement, glass shields for welders and diving equipment for divers, etc. to the satisfaction of the Employer or his representative and on his/their failure to do so, the Employer shall be entitled to provide the same and recover the cost thereof from the contractor/contractors.

#### **37.14 Safety Provision**

- i) The contractor should take necessary safety measures to carry out the job, without causing any accident, in the work premises, which will ultimately cause loss to Employer either directly or indirectly.

- ii) The contractor should apply for written permission to carry out the hot jobs with full details of the work, date, duration of work etc.
- iii) All the required safety gear and fire fighting accessories be made available by the contractor at the site of work for any emergency.
- iv) The permission copy should be sent to Port Fire and Safety Officer, and the Safety section in advance.
- v) The hot jobs should be started only after the concerned supervisory staff of the concerned department is satisfied with the safety arrangements made at site.

The contractor shall supply to his workmen and staff cotton arm bands of approved quality and colour for wearing them on their arms while carrying out the work. These arm bands should be of distinctive type and serially numbered and the contractor shall maintain a register of issue of arm bands and names of workmen to whom these have been issued.

Notwithstanding anything herein contained the contractor shall comply with all the provisions of the contract labour (Regulation and Abolition) Act, 1970 and Rules and Regulations made there under as amended from time to time if applicable.

The rates quoted by the contractors in the Price Schedule shall be deemed to include expenses whatsoever that the contractor may be required to incur for compliance with the provisions of the above Act.

In pursuance of Section 21 of the above Act and Rule 25(2)(V)(A) framed thereof, the Tenderers should note that in cases where the workmen employed by them to perform the same and similar kind of work as the workmen directly employed by this Employer, the wage rate of all category of workmen shall be in accordance with the statement of the Employer's Schedule of Rates revised from time to time. The wage rates in respect of categories of workmen which are not included in the Employer Schedule shall not be less than those specified in the Schedule of "Fair Wages".

The contractor shall make his own arrangements for the engagement of all labour, preferably local.

The Contractor shall also comply fully with the provisions of the payment of Wages Act, 1936.

If any enhancement in the rates of Wages become payable as a result of the implementation of the Chief Labour Commissioner's interpretation of the Contract Labour (Regulations and Abolitions) Central Rules, 1971 upto

and including an increase of 10% of the Wages, the same shall be borne by the contractor/contractors.

The contractor shall be responsible for the observance by his sub-contractors, of the foregoing provisions/precautions.

The contractor shall make necessary arrangements for the representative of the Employer and/or his representative to witness the payment made by the Contractor to his labourers. The contractor shall also submit periodical returns of labour employed by him and wages paid, to the Employer's representatives.

Supply of water: The contractor shall, 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.

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 Mechanical Engineering Department of Employer.

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

Disorderly conduct, etc.,: The contractor shall at all time 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 person and property in the neighbourhood of the works against the same.

Accidents: The contractor shall, within twenty four (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 Employer or his representative. The contractor shall also report such accidents to the concerned constituted authorities.

The contractor shall use water free of cost from the nearest Employer's tap or hydrant dependent on the availability as directed by the Engineers.

### **37.15 Safety of Existing Underground Services**

The contractor shall take due care and adopt such measures to ensure that the existing underground services of the Employer as well as Public

Utility Bodies viz. Electric Boards/Companies, BSNL/MTNL, local municipality, Gas Co., etc., are not damaged during the excavation work of cables trench, pole pits, foundation pits etc. The drawing showing the approximate route of such service will be available with the Superintendent, Electrical Construction Division of this office and shall be consulted before starting the work. Exact location of a service shall be ascertained by taking trial pits at strategic points as directed by the Employer or his representative. The work in the vicinity of such services shall be carried out to meet the specific requirements of a party to whom 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.

### **38.0 Employer's Decision**

38.1 The whole of the work under this contract shall be carried out under the direction of the Employer and his decision upon all questions relating to the details of construction or the meaning of the drawings, Specifications, Price Schedule 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 or his sub-contractors whether such decision shall have been 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.

### **39.0 Employment and Employer's Personal**

39.1 The successful Tenderer shall furnish information before the award of contract, whether he himself or any of his partners, directors or employees had held Class I post with the Employer within the period of last two years.

39.2 The Employer shall be at liberty to terminate the contract if the successful Tenderer himself or any of his partners, employees or any of his directors who having held Class I post with the Employer. prior to his retirement has failed to obtain the 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 provision of Class I Employees, (Acceptance of Employment after retirement) Regulations.

### **40.0 Licences**

40.1 Import Licence, Permits, etc.

The contractor will make his own arrangements for obtaining materials required for the manufacture of the items and for the efficient and regular operation of the work. The Engineer will, however, forward his application

for import licences, to the proper authorities if desired by him certifying the nature of the work to be carried out but under no circumstances the non-Supply of such controlled or other materials by the authorities will be taken as an excuse for not completing the contract, if awarded, within the stipulated period.

#### **41.0 Variation**

Variation means variation in quantities of items ie. Where there is increase of quantities of items of work in the agreement. On other words, the nomenclature of work remains the same, but the quantity of variation is maximum 30 % against the Tender cost shown in the agreement. The said variation shall be executed after approval of the competent authority.

#### **42.0 Quality Assurance Programme**

The firms are requested to submit a copy of their Quality Assurance Programme for stage-wise manufacturing of Truck Mounted Fog Cannon. The QAP will be scrutinized and approved by Chennai Port Trust for supply in case of the successful tenderer. The details of tests etc., shall be indicated specifying relevant IS Tests / Standard, etc.,

#### **43.0 Inspection**

- 43.1 The successful tenderer shall arrange for pre-despatch inspection of the Fog Cannon Machines by the Trust Officials or as nominated by Chennai Port Trust. Inspection cost shall be borne by Chennai Port Trust as per approved QAP.
- 43.2 Irrespective of the inspection made and approval given by any other agency, the materials will be inspected by the purchaser on its receipt at stores / site. It shall be lawful for the Purchaser to reject the goods which are found to be not as per the specification or found other-wise not suitable for use notwithstanding any other inspection that may have been done previously including inspection report / approval of any Third party inspection Agency.

#### **44. Operation Manual**

- 44.1 The firm shall furnish complete technical details of supply.
- 44.2 The firm shall also furnish all other required details which are not mentioned otherwise.
- 44.3 The firm shall mention the delivery time without fail.

- 44.4 The firm shall undertake required insurance at their cost.
- 44.5 The price quoted by the firm shall be kept fixed for the entire contract period.
- 44.6 Parts catalogue (03 Nos.) and Operation manual (03 Nos.) to be provided along with the supply of truck chassis. They shall also provide initial training to our personnel to operate the Fog Cannon Machines.

**CHIEF MECHANICAL ENGINEER**

## Section VII

### **SPECIAL CONDITIONS OF CONTRACT**

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

#### **GCC 1.1(a) and 1.1(g)**

*Chief Mechanical Engineer,  
Chennai Port Trust,  
No.1, Rajaji Salai,  
Chennai – 600 001.  
The Employer is: Trustees of Port of “Chennai”*

#### **GCC 1.1 (p)**

The Project Site(s)/Final Destination(s) is/are:  
  
Chennai Port Trust  
in pursuant to ITT clause 14.5 a(iii)..

#### **GCC 4.2 (a)**

Incoterms is not applicable to this tender, since the procurement is from local bidders (INDIAN BIDDERS).

#### **GCC 4.2 (b)**

Incoterms is not applicable to this tender and QUOTED RATE SHOULD BE INCLUSIVE OF ALL TILL DELIVERY, INSTALLATION, TESTING AND COMMISSIONING AT CHENNAI PORT TRUST, CHENNAI.

#### **GCC 8.1**

For **notices**, the Employer’s address shall be:

Attention: Chief Mechanical Engineer  
Chennai Port Trust,  
No.1 Rajaji Salai, Chennai – 600 001  
City: Chennai, PIN Code: 600 001  
Country: India  
Telephone: (044) - 25362070  
Facsimile number: (044) – 25360955  
Electronic mail address: [v.thuraipandian.chpt@gov.in](mailto:v.thuraipandian.chpt@gov.in)

#### **GCC 9.1**

The governing law shall be the law of Government of India or its constituents and all legal disputes shall be subjected to the jurisdiction of High Court of Madras.

## **GCC 10.2**

The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall not be applicable to this contract.

The decision of Chief Mechanical Engineer shall be final with an appealing authority as Chairman of the Port. The decision of the Chairman shall be binding on either party.

## **GCC 12.1**

Details of Shipping / dispatch and other Documents to be furnished by the Contractor are a railway consignment note, a road consignment note, insurance certificate, Manufacturer's or Contractor's warranty certificate, inspection certificate issued by nominated inspection agency, Contractor's factory shipping details etc.

The above documents shall be received by the Employer before arrival of the Goods and, if not received, the Contractor will be responsible for any consequent expenses.

## **GCC 14.1**

The prices charged for the Goods supplied and the related Services performed shall *not be* adjustable.

***No escalation of what so ever nature shall be payable in the contract except that the contract price shall be adjustable on account of any changes in statutory Taxes and duties.***

## **GCC 15.1 to 15.4**

### **PAYMENT TERMS:**

- (i) Chennai Port will release the payment within 30 days after successful completion of 'Supply, Installation, Testing and Commissioning of 1 No. Truck Mounted Fog Cannon Machine at Chennai Port' and submission of all relevant documents.
- (ii) Income tax @ 2% with applicable surcharge & education cess shall be levied U/S 194 (c) of Income Tax Act 1961.
- (iii) The payment will be made on production of pre-receipted bill in the Trust's format and being certified by the Employer's representatives
- (iv) The firm shall quote the Bank Account details for the payment through ECS along with PAN. A copy of the Pan Card along with Copies of Self attested Statutory documents as applicable such as ESI Registration or exemption certificate as per ESI Clause in the Tender Document, GST



Registration Number, EPF., any other Statutory documents for payment shall be furnished.

#### **GCC 16.0**

- i) All the Prices shall be firm and the rate and amount of applicable GST shall be mentioned properly as per BOQ(Price Schedule)
- ii) Any new and variation in Taxes & Duties shall be applicable only during the scheduled completion period and new/variation in Taxes & Duties will not be allowed during the extended delivery/ completion period.
- iii) Any penal interest, penalty or fine payable / paid by the contractor to the Tax Authorities on the Taxes & duties shall not be paid / reimbursed by the Trust under any circumstances.
- iv) In the event, the firm not indicating the rate of Taxes and Duties included in the price separately in the Bid, the port shall not pay any change in the rate of Taxes and Duties including any newly levied Taxes and Duties during the entire currency of the contract under any circumstances.

#### **GCC 17.1**

##### **Security Deposit / Performance Guarantee**

The Security deposit of 10% of the contract value shall be submitted by the successful bidder within 21 days from the date of acceptance or 7<sup>th</sup> day of the issue of work order.

#### **GCC 17.3**

The Security Deposit shall be in the form of Account Payee Demand Draft / Fixed Deposit receipt from a Commercial Bank, Bank Guarantee from a Commercial Bank (or) online payment in favour of the Chairman, Chennai Port Trust payable at Chennai.

The Security Deposit shall be denominated in the INR.

#### **GCC 17.4**

Security Deposit shall be refunded after successful completion of free guarantee period of two years or extended guarantee period.

### **GCC 22.2**

The packing, marking and documentation within and outside the packages shall be as stated under GCC Cl No. 22.1 to 22.3 and clearly mention the **final destination** mentioned under clause TIS 14.5 (a) (iii).

### **GCC 23.1**

The **insurance** coverage shall be as follows:-

The contractor has to quote for the Insurance Charges. The entire equipment shall be insured during transit of materials from the Place of dispatch to the Place of Destination and till handing over / taking over of the equipment to the satisfaction of the Employer.

### **GCC 24.1**

The Contractor is required to arrange for transporting the entire equipment from the place of manufacturer to a specified place of final destination, defined as the Project Site (i.e. Chennai Port Trust).

### **GCC 25.1, 25.2, 25.3 & 25.5:**

Inspection and tests shall be carried out by Trust Officials or nominated third party agency at firm's premises. All the cost towards the inspection shall be borne by Chennai Port Trust.

### **GCC 26.1**

#### **The Liquidated Damage/Late Delivery Charges:**

The Truck Mounted Fog Cannons shall be deployed in Chennai Port within 90 days from the date of receipt of LoA. After due verification and satisfaction of the above conditions the successful Contractor will be allowed to deploy the Fog Cannon Machines.

The Liquidated Damages/Late Delivery Charges shall be deducted from any amount payable to or to be payable to the contractor/supplier including encashment of Performance Guarantee or any securities/guarantees, if any available with the Port Trust.

The Liquidated Damages/Late Delivery Charges shall be ½% of the contract value per week or part thereof (a week is designed as 7 days inclusive of holidays) subject to a maximum of 10% of the contract value plus applicable GST failed to supply of Truck Mounted Fog Cannon as per the delivery period of 90 days.

If the contract/supply order is delayed after giving due notice, the contract/supply order may be cancelled by the competent authority with the condition that any additional expenditure incurred by the Port Trust in completing the work/supply order will be recovered from the contractor/supplier of the

cancelled contract/supply order for non-performance/delay in the execution of the contract/supply.

### **GCC 26.2**

#### **Penalty**

##### ***During the Guarantee Period:***

If the Tenderer fails to achieve the Performance during guarantee period a penalty of 1%(one percent) of the total Contract price cost shall be levied for **each Day** or part thereof shortfall in the guaranteed availability subject to a maximum of 10% on the Contract price cost will be levied and recovered as penalty charges from the Security Deposit amount.

### **GCC 27.3**

The entire 1 No.Truck Mounted Fog Cannon Machine with all accessories shall be guaranteed free for Two years from the handing over of the Fog Cannon Machine.

### **GCC 27.5 & 27.6**

The period for repair or replacement shall be **Three (3)** days in normal course. However, if spare parts are required, the period shall be as determined by the Employer.

Defect Liability Period shall be extendable to the extent of idling of Equipment/ Facility (non-commercial use) due to non rectification of defects during the original or extended defect liability period; Reasonable period of response may be decided on case to case basis and indicated by the Employer after considering the nature and type of defect, its remedial process and scope of contract.

CHIEF MECHANICAL ENGINEER

**Section VIII**  
**Contract Forms**  
**Table of Forms**

1. Contract Agreement
  
2. Performance Guarantee / Security Deposit

**CONTRACT AGREEMENT**

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

*[The successful Tenderer shall fill in this form in accordance with the instructions indicated]*

THIS CONTRACT AGREEMENT is made

the *[ insert: **number** ]* day of *[ insert: **month** ], [ insert: **year** ]*.

BETWEEN

- (1) *The Trustees of Port of Chennai Port Trust, an Autonomous Body of the Ministry of SHIPPING of the Government of INDIA, incorporated under the Major Port Trust Act, 1963 as Amended thereafter, under the Laws of India and having its principal place of business at [ ChPT ] (hereinafter called “the Port”), and*
- (2) *[ insert name of Contractor ], [incorporated under] the laws of [ insert: country of Contractor ] and having its principal place of business at [ insert: address of Contractor ] (hereinafter called “the Contractor”).*

WHEREAS the Employer/ Board invited Tenders against tender no. “” viz., and has accepted a Tender by the Contractor in accordance with the supply/delivery schedules, in the sum of *[insert Contract Price in words and figures, expressed in the Contract currency(ies)]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall constitute the Contract between the Employer/ Board and the Contractor, and each shall be read and construed as an integral part of the Contract:
  - (a) This Contract Agreement;
  - (b) Special Conditions of Contract;

- (c) General Conditions of Contract;
- (d) Technical Requirements (including Schedule of Requirements and Technical Specifications, drawings);
- (e) Notice Inviting Tender;
- (f) Replies issued to the Pre-bid queries, addenda is any issued **[numbers and dates]**;
- (g) The Contractor 's Bid and original Price and Delivery Schedules;
- (h) The Employer/ Board's Notification of Award;
- (i) *Correspondence the Employer/ Board had exchanged with the bidder till and after award of contract*;
- (j) *and any other document(s)*

AND WHEREAS EMPLOYER/ BOARD accepted the Bid of CONTRACTOR for the provision and the execution of WORK at the CONTRACT PRICE as indicated in CONTRACT upon the terms and subject to the conditions of Contract. Now this CONTRACT AGREEMENT witnesseth and it is hereby agreed and declared as follows:

- (a) In consideration of the payment to be made to CONTRACTOR for WORK to be executed by him. CONTRACTOR hereby Covenants with EMPLOYER/ BOARD that CONTRACTOR shall and will duly provide, execute and complete Work and things in CONTRACT, mentioned or described or which are to be implied there from or may be reasonably necessary for completion of Work and at the times and in the manner and subject to the terms and conditions or stipulations mentioned in CONTRACT.
- (b) In consideration of the due provision, execution and completion of WORK by the CONTRACTOR in accordance with the terms of the CONTRACT, the EMPLOYER/ BOARD does hereby agree with CONTRACTOR that EMPLOYER/ BOARD will pay to Contractor the respective amounts for the work actually done by him and approved by EMPLOYER/ BOARD as per Payment Terms accepted in CONTRACT and payable to CONTRACTOR under provision of Contract at such time and in such manner as provided for in the CONTRACT.

AND

- (c) In consideration of the due provision, execution and completion of WORK, CONTRACTOR does hereby agree to pay such sums as may be due to EMPLOYER / BOARD for the services rendered by EMPLOYER/ BOARD to Contractor as set forth in CONTRACT and such other sums as may become payable to EMPLOYER/ BOARD towards loss, damage to the EMPLOYER/ BOARD's

equipment, materials etc. and such payments to be made at such time and in such manner as is provided in the CONTRACT.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of *INDIA* on the day, month and year indicated above.

For and on behalf of the Employer/ Board

Signed: *[insert signature]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[insert identification of official witness]*

For and on behalf of the Contractor

Signed: *[insert signature of authorized representative(s) of the Contractor ]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[ insert identification of official witness]*

SPECIMEN PERFORMANCE GUARANTEE/ SECURITY DEPOSIT/ EMD  
(To be executed on Rs.100/- non-judicial Stamp Paper)

*[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated]*

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

(Name of the Contractor/s)

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

(Name of the Department)

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

covered under Tender No. \_\_\_\_\_ dated \_\_\_\_\_

(hereinafter called "the said contract") for the payment of Performance Guarantee in cash or Lodgment of Government Promissory Loan Notes for the due fulfillment by the said Contractors of the terms and conditions of the said Contract, on production of a Bank Guarantee for Rs. \_\_\_\_\_

(Rupees \_\_\_\_\_) only we, the

(Name of the Bank and Address) \_\_\_\_\_

\_\_\_\_\_ (hereinafter referred to as "the Bank") at the request of the Contractors do hereby undertake to pay to the Board an amount not exceeding Rs. \_\_\_\_\_

(Rupees \_\_\_\_\_) only against any loss

or damage caused to or suffered or which would be caused to or suffered by the Board by reason of any breach by the Contractors of any of the terms and conditions of the said contract.



2. We, \_\_\_\_\_, \_\_\_\_\_, do hereby  
(Name of Bank) (Name of Branch)

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

3. We, \_\_\_\_\_, undertake to pay to the  
(Name of Bank and Branch)

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

4. We, \_\_\_\_\_ further agree with the Board that  
(Name of Bank and Branch)

the guarantee herein contained shall remain in full force and effect during the period that would be taken for performance of the said contract and that it shall continue to be enforceable till all the dues of the Board under or by virtue of the said contract have been fully paid and its claims satisfied or discharged or till the

\_\_\_\_\_  
(Name of the user department)

of the said certifies that the terms and conditions of the said contract have been fully and properly carried out by the said Contractors and accordingly discharge this guarantee. PROVIDED HOWEVER that the Bank shall be the request of the Board but at the cost of the Contractors, renew or extend this guarantee for such further period or periods as the Board may require from time to time.

5. We, \_\_\_\_\_ further agree with the Board

(Name of Bank and Branch)

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

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

7. It is also hereby agreed that the Courts in CHENNAI would have exclusive jurisdiction in respect of claims, if any, under this Guarantee and en-cashable at Chennai local branch.

8. We, \_\_\_\_\_ Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Board in writing and we have the branch office at \_\_\_\_\_, in Chennai and the Bank Guarantee shall be encashed at Chennai Local Branch, if required..

9. \*Notwithstanding anything contained herein :

a) Our liability under this Bank Guarantee shall not exceed Rs. \_\_\_\_\_

(Rupees \_\_\_\_\_ only);

- b) This Bank Guarantee shall be valid upto \_\_\_\_\_; and
- c) we are liable to pay the guarantee amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written claim or demand on or before \_\_\_\_\_ (date of expiry of Guarantee).”

Date \_\_\_\_\_ day of \_\_\_\_\_ 20  
For (Name of Bank)

(Name)

Signature

**SECTION – IX**  
**INTEGRITY PACT**

BETWEEN

Chennai Port Trust Chennai 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 ..... The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with the Bidder/s and Contractor/s.

In order to achieve these goals, the Principal will appoint an external independent Monitor who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

**Section 1 – Commitments of the Principal**

(a) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles :-

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 him/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.

The Principal will, during the tender process treat all Bidders/Contractors with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidders/Contractor the same information and will not provide to any Bidder/Contractor confidential/additional information through which the Bidder/Contractor could obtain an advantage in relation to the tender process or the contract execution.

The Principal will exclude from the process all known prejudiced persons.

(b) 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 its Chief Vigilance Officer and in addition can initiate disciplinary actions.

## **Section 2 – Commitments of the Bidder/Contractor**

(a) The Bidder/Contractor 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.

- (i) The Bidder/Contractor 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 immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- (ii) The Bidder/Contractor will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- (iii) The Bidder/Contractor will not commit any offence under the IPC/PC Act; further the Bidder/Contractor 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.
- (iv) The Bidder/Contractor of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder/Contractor of Indian Nationality shall furnish the name and address of the foreign principals, if any.
- (v) The Bidder/Contractor 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.

(b) The Bidder/Contractor 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/Contractor, before award of contract has committed a transgression through a violation of Section 2 or in any other form such as to put his reliability

or credibility as Bidder/Contractor into question, the Principal is entitled to disqualify the Bidder/ Contractor from the tender process or to terminate the contract, if already signed, for such reason.

- (a) If the Bidder/Contractor has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Principal is entitled also to exclude the Bidder/Contractor from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.
- (b) The Bidder/Contractor accepts and undertakes to respect and uphold the Principal's absolute right to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.
- (c) If the Bidder/Contractor can prove that he has restored/recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.
- (d) A transgression is considered to have occurred if in light of available evidence no reasonable doubt is possible.

#### **Section 4 – Compensation for Damages**

- (a) If the Principle has disqualified the Bidder/contractor from the Tender process prior to the award according to section 3, the Principal is entitled to demand and recover from the Bidder/ contractor liquidated damages equivalent to 3 % of the value of the offer or the amount equivalent to Earnest Money Deposit/ Bid Security, whichever is higher.
- (b) 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 Principle shall be entitled to demand and recover from the contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit / Performance Bank Guarantee, whichever is higher.

- (c) The Bidder / Contractor agrees and undertakes to pay the said amounts without protest or demur subject only to condition that if the Bidder/Contractor can prove and establish that the exclusion of the Bidder / Contractor from the tender process or the termination of the contract after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder / Contractor shall compensate the Principal only to the extent of the damage in the amount proved.

#### **Section 5 – Previous Transgression.**

- (a) The Bidder / Contractor declares that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (b) If the Bidder / Contractor makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

#### **Section 6 – Equal treatment of all Bidders / Contractors / Sub-Contractors**

- (a) The Bidder / Contractor undertake to demand from all sub-contractors as commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (b) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and Sub-Contractors.
- (c) The Principal will disqualify from the tender process all bidders/contractors who do not sign this pact or violate its provisions.

#### **Section 7 – Criminal charges against violating Bidders/Contractors/ Sub-Contractors**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Sub-Contractor or of an employee or a representative or an associate of a Bidder, Contractor or Sub-Contractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer.

#### **Section 8 – External Independent Monitor/Monitors (number depending on the size of the contract to be decided by the Principal)**

- (a) The Principal appoints competent and credible external independent 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.

- (b) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently.
- (c) The Bidder/Contractor 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 his project documentation. The same is applicable to Sub-Contractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Sub-Contractor with confidentiality.
- (d) 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.
- (e) 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 to 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.
- (f) The Monitor will submit a written report to the Principal within 8 to 10 weeks from the date of reference or intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.
- (g) Monitor shall be entitled to sitting fee for his service as decided by the Principal from time to time depending upon the total value of the project. The said fee will be borne by the Principal.
- (h) If the Monitor has reported to the Principal substantiated suspicion of an offence under the IPC/PC Act and the Principal has not, within reasonable time, taken visible action to proceed against such offence or reported to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- (i) The word 'Monitor' would include both singular and plural.



(j) The present Independent External Monitors are:

- 1) Shri.M.Selvaraj, Ex-Director (Fin.) Mazagon Dock Limited,  
Flat No.248, Wing D2,  
Om Shubhkarma CHS Ltd,  
Karmashetra, SS Nagar,  
Mumbai – 400 037.
- 2) Shri.Ramabadrnan Krishnan, Ex-Director(HR), BHEL  
A4, Alkapuri, Bhopal – 462024,  
Madhyapradesh.

### **Section 9 – Pact Duration**

- (a) This Pact begins when both parties have legally signed it. It expires for the **Contractor 12 months** after the last payment under the respective contract, and for all other Bidder 6 months after the contract has been awarded.
- (b) 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 the Chennai Port Trust.

### **Section 10 – Other Provisions**

- (a) This agreement is subject to Indian Law. Place of performance and jurisdiction is Chennai.
- (b) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (c) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (d) Should one or several provision 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.

For the Principal  
(Office Seal)

For the Bidder/Contractor  
(Office Seal)

Place:

Date:

WITNESS 1  
(Name and Address)  
WITNESS 2  
(Name and Address)

## **DECLARATION FORM**

Sl.No.	Description	Yes / No
1.	Agreed all Trust terms and Conditions	
2.	Have you ever been Black listed by any Government / PSU	

**Firm's Sign and Seal**

Place:  
Date:

# **DRAWINGS**

## **Drawing list**