

ANNEXURE-A

Sr. no.	Clause No.	Pg. No.	Tender Conditions	Bidders Queries	MPT Clarification
1	...	...	...	Leasing of the land and water areas is useless till the wrecks of the Floating Dry Dock and the ship under repair are removed. Why is the tender silent on this cardinal point?	Land and water areas will be handed over after removal of wrecks, Floating Dry Dock and the Ship
2	3.21	46	UPFRONT PAYMENT : In consideration of the Port's Assets listed in Appendix-1, other than Project Site, which are to be transferred to the Successful Bidder/ Developer, the Successful Bidder/ Developer shall pay to the Employer an amount of Rs. 50.83 Crore within 120 days of signing of Agreement (Conditions Precedent by the Developer).	The past experiences of Ports in leasing facilities have not succeeded due to heavy Up Front Payments and Annual Payments. Up Front Payment of 50.83 Crores for existing facilities is considered very high, dissuading many eligible firms from taking part in the tender. As we are giving the rent for these facilities and also as we are not the owner of the land, we shall not be liable to pay the cost of the immovable assets valued at Rs. 50.83 Crores. Will Port Trust accept this argument? If not, will the Port Trust return this amount of Rs. 50.83 Crores at the end of the lease? We would also seek permission to have Independent Valuation of these facilities listed to cost Rs. 50.83 Crores, at our cost.	UPFRONT PAYMENT : Tender condition prevails. However, considering the variation in areas at site, the upfront payment works out to Rs 45.95 crore which shall be paid by the successful bidder/ Developer to the Employer within 120 days of signing of Agreement (Condition Precedent by the Developer). (The upfront payment shall be increased or decreased on pro rata basis in the event of variation in the area or length as stated above, which will be confirmed through a joint survey within one month after signing of the Agreement) Upfront Payment is onetime non refundable payment towards existing Civil Engineering infrastructure available at the site which can be used by the Developer. Developer can change/modify/build any infrastructure subject to approval of the Employer. Independent valuation can be carried out by the bidder however it will not be binding on the Port to accept the valuation carried out by the bidder.
3	iv	79	Project Requirements: Providing and maintaining the required depths in the berth basin and its approach as per the methodology of dredging approved by the Port. Mormugao Port Trust would be maintaining the common user channel.	The responsibility of initial capital dredging to 14 m has been put on the Lessee. Lessee may carry out maintenance dredging. Why is the initial dredging made responsibility of the lessee? Can this be changed?	Refer Clause no. 3.21.5 of the tender document. Dredging levy, if any will be applicable only for vessels requiring a draft of 14.10 m and above. Present draft level of the existing water area at the site is about 8 mtrs. Sounding Charts of recent dredging carried out is uploaded. The basin area available with the Developer shall be maintained at -9.00 mtrs. draft. Maintenance dredging to be carried out annually before October every year by the Developer
4	...	....	.....	If the Lessee carries out the Ship Repair work satisfactorily for 30 years, will the Lessee get any privilege for the next tender for lease at the end of 30 years?	No. Since there is no provision for automatic renewal of lease, fresh allotment of land lease will be tendered. Any privilege that can be claimed by the Developer for the next tender will be in accordance with the Land Policy guidelines prevalent at that time/Govt. order/ Employer's decision. As per current Land Policy guidelines, the existing lessee will have the first right of refusal in the tender cum e-auction process.
5	3.21.3	46	Payments of Guaranteed Amount (GA) The Developer shall pay to the Employer, the Guaranteed Amounts (GA) which he has undertaken to pay per annum, as specified in the Price Bid in Annexure-IX, till the expiry of the Contract Period.	The Reserve Price for the Guaranteed Payment is considered too high. Can this Reserve Price be reduced? Further 3% compounded increase per year is also considered high. Can it be fixed for 5 years and thereafter increased by 3% for the next 5 years and so on? Why discounting factor of 8% is taken?	No reserve price has been fixed in the tender for Guaranteed Amount (GA) and the same is to be quoted by the bidder as per the Price Bid (Annexure-IX). Difference between the rates quoted between two consecutive years shall not be more than 5%. GA is not linked to the SoR 8% discounting factor is considered for calculating PV for evaluation of different bids. As regards lease rent, the rates are as per SoR at the time of handing over of land and water areas and cannot be changed. The lease rent shall be escalated @3% per annum over the previous year's rent.

6	...	....	.....	The Lessee should be handed over the facilities on a clean slate. There should be no claims from M/s Western India Shipyards Ltd or any employees of the firm or any trade union for employment of existing workers. Can this be assured by the Port Trust?	Area will be handed over to the Developer only after all the issues related to M/s Western India Shipyard are resolved.
7				Will Port Trust provide an Indemnity to the Successful Bidder against disruption of work by the Lessee due to Court Orders initiated by the Previous Lessee of the Ship Repair Facility?	
8				What happens to the payment of lease rent and guaranteed amount if e-auction continues after handing over the land and water area to the Developer	Area will be handed over to the Developer only after all the equipments are removed from the premises.
9	....	....	....	The Lessee's employees should be provided unhindered access to the facilities. Can Port Trust assure this?	
10	.....	....	....	There should be no lien on the facilities by existing creditors, mainly banks, of the earlier shipyard. Can this be guaranteed by the Port?	Lessee's employees will be provided unhindered access and all lien on the facilities will be cleared before handing over.
11	...	...	...	The Lessee should not be compelled to repair Port Trust Vessels on Priority. There should be no separate Rates for the Port Trust Vessels. Can Port Trust Guarantee these?	There is no such condition in the tender. The Developer may participate in open tenders issued by the Port for repairs of Port Crafts
12	2.3 (a)	21	Number of members in a consortium shall not exceed 3 (Three).	Can the Consortium and SPV be formed by more than 3 entities? Can the Minimum Per Cent Ownership of SPVs be reduced? You may also add a provision that at least one entity in the SPV should be involved in ship repair for at least 3 years.	Tender condition prevails. However clause no. 2.6 (MQC) has been modified as given at Sr. no. 13
13	2.6	23	Minimum Qualification Criteria (MQC)	Presently, the turn over for qualifications is based at 3 years earlier to 31 Mar 2017. Can this date be brought forward to 31 Mar 2018?	<p><u>MINIMUM QUALIFICATION CRITERIA(MQC)</u> The net worth of the tenderer, either Single Entity or Consortium or Joint Venture as on March 2018 shall not be less than Rs.53.75 Crores or equivalent.</p> <p>The average annual financial turnover for the last 3 financial years ending 31stMarch 2018 of Single Entity, JV/Consortium shall not be less than Rs 64.50 Crores or equivalent in Ship repair/Ship building</p> <p>PI Note:</p> <ol style="list-style-type: none"> The bidder shall indicate his annual turnover and net worth in the annual statement as per Annexure-III. (Annexure III modified is enclosed herewith). The Tenderers shall enclose copies of originals of audited balance sheets with Profit & Loss account statement of the Annual Financial Turnover for the years (2015-16, 2016-17 & 2017-18). For conversion of Foreign currency to Indian Rupees, the rate prevailing as on due date of submission of Bid will be considered
14			The Average Annual Financial Turnover of the tenderer during the last Three (3) years ending 31st March 2017 (2014-15, 2015-16 & 2016-17) shall not be less than Rs.100 Crores or equivalent in the business of Ship Repair / Ship Building	Can the Average Annual Turn Over Criterion for MQC be reduced from Rs. 100 Crores in Ship Building / Ship Repair. Can other disciplines be added to Ship Repair and Ship Building for eligibility?	

15	3.25.5	53	Compensation on Termination	Clause 3.25.5, Compensation on Termination, provides compensation to the developer (Lessee) on account of termination by the employer (Lessor, Port Trust). However it does not compensate the developer in case of force majeure event. Clarification is needed on the factor 0.90 in the formula given in sub clause A and B.	In case of Force Majeure, Compensation payable shall be as per clause no. 3.25.5(3) viz. 'Compensation in case of the Employers event of default or determination of the facility'. Payment will be based on the same formula as given on page no 54 of the tender document.						
16	3.25.5	53	Compensation on Termination	How will the present day value be ascertained by the employer in case of new immovable assets constructed by the Developer? Also whether the investment made by the Developer to enhance the service life of the immovable assets shall be taken into consideration for present day value.	Only the Capital cost of the construction will be considered for compensation on submission of documentary evidence by the Developer and with due approval by the Employer as per the clause no. 6, page no 60 of the tender document. However no compensation will be considered for investment on maintenance of the infrastructure carried out by the Developer						
17	...	74	Appendix-1	Clarification is required for the water and land area: The attached drawing to the tender specifies that the Land and Water Areas also include area given for Berth no 4, Reclaimed land/area near Berth 4 & area of along-side berth. However, these areas are separately mentioned in Appendix -1. We consider that these areas, included in Land and water areas, should not be considered for lease rent. Please clarify.	Appendix-I has been modified and enclosed herewith.						
18	3.21.2	46	Lease Rent	Please provide present /current Port's Scale of Rates(SoR).	SoR is being revised every year in the month of June. SoR for current year is given below <table border="1"> <thead> <tr> <th>Year</th> <th>Land area (Rs)</th> <th>Water area(Rs.)</th> </tr> </thead> <tbody> <tr> <td>2018-19</td> <td>614</td> <td>307</td> </tr> </tbody> </table> <p>However, SoR as on date of handing over of land and water area to the Developer will be applicable for the first year and the lease rent will be escalated by an amount of 3% over the previous years irrespective of increase or decrease in SoR.</p>	Year	Land area (Rs)	Water area(Rs.)	2018-19	614	307
Year	Land area (Rs)	Water area(Rs.)									
2018-19	614	307									
19		6	NIOT	Can the Due Date of the tender be extended by 3 months in view of the requirement of formation of SPV? Formation of SPV is similar to setting up a company and this cannot be done in one or two months.	Formation of SPV will be after award of work. Only joint bidding Agreement is to be done. However considering the ground work like formation of consortium, financing, etc the due date has been extended to 04.09.2018						
20	2.3	20	Where the Bidder is a single entity, it may be required to form an appropriate Special Purpose Vehicle.....	In case of any foreign entities entering as an SPV partner, will Port Trust facilitate any FIPB approvals?	As per Office Memorandum No. F. No. 01/01/FC/2017-FIPB dated 5 th June 2017 issued by Ministry of Finance, Govt. of India, the proposal for abolition of Foreign Investment Promotion Board (FIPB) has been approved by Govt. of India. Refer link www.fifp.gov.in/Forms/OMabolitionFIPB.pdf						
21	What is the status of the Lessee, in case of change in law and Port Trust Act?	By introduction of any act of law or any change in law, if Developer is not able to perform then Force Majeure will be applicable.						
22				If it is observed that the Finger Jetty is not sustainable after handing over the Site to the Developer? It was observed during the site inspection that two bollards have come out from finger jetty. This means that the life of the jetty is already over. Request MPT to convey their assessment of life of the finger jetty	Employer will not take any responsibility for the same. Developer has to ascertain the condition and stability of the infrastructure handed over All immovable assets are given on as is where basis is. Refurbishment is the responsibility of the Developer						
23				Compensation on termination of contract after nearing completion of Lease period	Refer clause no. 3.25.5(3) viz. 'Compensation in case of the Employers event of default or determination of the facility'.						

24	3.6	37	<p>COMMISSIONING OF THE FACILITY</p> <p>The Ship Repair Facility as stipulated in Appendix-2: Project Requirements, to this Bid Document shall be commissioned within a period of 24 months from the date of handing over land and water areas. This period may be extended for further period not exceeding 12 months subject to approval by Employer with levy of Liquidated Damages.</p> <p>Any delay hereafter will be considered as an event of default.</p>		<p>COMMISSIONING OF THE FACILITY</p> <p>The Ship Repair Facility as stipulated in Appendix-2: Project Requirements, to this Bid Document shall be commissioned within a period of 24 months from the date of handing over land and water areas by the Employer.</p> <p>Beyond this period of 24 months, liquidated damages will be applicable as per clause no. 3.18, provided that this extended period shall cumulatively not exceed 12 months subject to approval by Employer. Any delay beyond 12 months will be considered as an event of default in accordance with clause no. 3.23.1. However, in case of genuine reasons (beyond the control of Developer) which should be established by the Developer, the applicable LD will be considered for waiving off at the sole discretion of the Employer.</p>
25	3.17.3(b)	43	<p>PLACE OF ARBITRATION</p> <p>The arbitration proceeding shall take place at a suitable place in Goa or at Administration Building ,MPT.</p>		<p>PLACE OF ARBITRATION</p> <p>The arbitration proceeding shall take place at a suitable place in Goa to be decided by the Employer</p>
26	3.20.2	45	<p>PORT'S ASSETS OTHER THAN PROJECT SITE</p> <p>The ownership of the Port's Assets other than Project Site, will be handed over to the Successful Bidder/Developer by MPT, upon receiving the Upfront Payment as per Clause 3.21.1, shall remain vested with the Successful Bidder/ Developer. The Developer will have the liberty to utilize/modify/alter/dispose off these assets according to will and pleasure, until expiry of this Agreement or transfer to the Employer on Termination in accordance with this Agreement.</p>		<p>PORT'S ASSETS OTHER THAN PROJECT SITE</p> <p>The ownership of the Port's Assets other than Project Site, handed over to the Successful Bidder/Developer by MPT, upon receiving the Upfront Payment as per Clause 3.21.1, shall remain vested with the Successful Bidder/ Developer. The Developer will have the liberty to utilize/modify/alter/dispose off these assets, subject to submission of design and drawings to the Employer and approved by the Employer until expiry of this Agreement or transfer to the Employer on Termination in accordance with this Agreement.</p>
27	4.6	66	<p>The contract would be deemed terminated if Employer fails to hand over the land and water area including Port assets as set out in this tender within a period of 12 months from date of signing of the Agreement and EMD will be returned to the Developer.</p>		<p>The contract would be deemed terminated if Employer fails to hand over the land and water area including Port assets as set out in this tender within a period of 12 months from date of signing of the Agreement and Security Deposit, upfront payment and Advance of annual lease rent already paid will be returned to the Developer.</p>
28	4.4	65	<p>If the MPT has not waived or extended the time under Clause 4.3 above, and if the Developer has failed to fulfill the Conditions Precedent to be fulfilled by it under Clause 4.1(a) (and which are within the power of the Developer), the Developer shall be liable to pay liquidated damages in a sum calculated at the rate of 0.5% of the Performance Guarantee for each day's delay until fulfillment of the Conditions Precedent subject to a maximum of 5% of the figure mentioned in the Performance Guarantee furnished by the Developer. In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Developer is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 4.5 below;</p>		<p>If Employer has not waived or extended the time under Clause 4.3 above, and if the Developer has failed to fulfill the Conditions Precedent to be fulfilled by it under Clause 4.1(a) (and which are within the power of the Developer), the Developer shall be liable to pay liquidated damages in a sum calculated at the rate of 0.1% of the Performance Guarantee for each day's delay until fulfillment of the Conditions Precedent subject to a maximum of 5% of the figure mentioned in the Performance Guarantee furnished by the Developer. In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Developer is still not in a position to comply with the Conditions Precedent, then the agreement shall be terminated as provided for in Clause 4.5 below</p>
			<p>New Clause</p>		<p>CUSTOM DUTY: The entire custom bound area will be denotified. The Developer shall be fully responsible for Custom clearance of imported project equipment, foreign vessels brought in the yard for repairs and any other goods procured by the Developer which require Custom clearance and payment of all custom duties</p>

30	3.21.2	46	<p>3.21.1UPFRONT PAYMENT In consideration of the Port's Assets listed in Appendix-1, other than Project Site, which are to be transferred to the Successful Bidder/ Developer, the Successful Bidder/Developer shall pay to the Employer an amount of Rs. 50.83 Crore within 120 days of signing of Agreement (Conditions Precedent by the Developer).</p> <p>LEASE RENT The Developer shall in consideration of the use of the Project Site, shall pay in advance to the Employer the First Annual Lease Rent (ALR) as per the prevailing Scale of Rates (SOR) within 120 days of signing of Agreement (Conditions Precedent by the Developer).The lease rent will be escalated by an amount of 3% over the previous year irrespective of increase or decrease in SOR. Such amount shall be paid by the Developer annually in advance, one month before the due date of payment every year. GST at the applicable rate shall be paid by the Developer.</p>		<p>3.21.1UPFRONT PAYMENT In consideration of the Port's Assets listed in Appendix-1, other than Project Site, which are to be transferred to the Successful Bidder/ Developer, the Successful Bidder/Developer shall pay to the Employer an amount of Rs. 45.95 Crore within 120 days of signing of Agreement (Conditions Precedent by the Developer).</p> <p>LEASE RENT The Developer shall in consideration of the use of the Project Site, shall pay in advance to the Employer the First Annual Lease Rent (ALR) as per the prevailing Scale of Rates (SOR) as per clause 4.1(a). The lease rent for the first year will be the rent applicable according to SoR at the time of handing over the land and water areas. Subsequently for the following years, the lease rent will be escalated by an amount of 3% over the previous year irrespective of increase or decrease in SOR. Such amount shall be paid by the Developer annually in advance, one month before the due date of payment every year. GST or any taxes at the applicable rate shall be paid by the Developer.</p>
31	2.10	25	Price bids will be opened only after Security Clearance of the bidders is received from the Government. Bidders will have to provide details of the company in the prescribed format which will be made available to the bidders.		Price bids will be opened only after Security Clearance of the foreign bidders/ foreign members of Consortium or JV is received from the Government. Bidders will have to provide details of the company in the prescribed format which will be made available to the bidders.
32	8(v)	123	Failing amicable settlement and/or settlement with the assistance of Expert, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. The arbitration shall be by a panel of three Arbitrators, one each to be appointed by the Employer and the Lenders/Lender's Representative and the third to be appointed by the two arbitrators. If any Party entitled to do so, fails to appoint a second Arbitrator within 30 (thirty) Days of from the receipt of the request for such appointment, then the single Arbitrator appointed in accordance with this provision shall adjudicate the disputes as Sole Arbitrator.		Failing amicable settlement and/or settlement with the assistance of Expert, the dispute or differences or claims as the case may be, shall be finally settled by arbitration under the Arbitration and Conciliation Act, 1996, as amended from time to time.
33	1.14	16	OTHER EXPENSES All costs charges and expenses including any duty in connection with the Contract as well as preparations and completions of Agreement by MPT's attorneys shall be borne and payable by the Bidder. Bidder shall ascertain the taxes and duties to be paid on his own before the submission of the bid. All taxes & duties, to be paid to Govt. of India, Govt. of Goa or any statutory bodies shall be paid by the Contractor for stamp duty.		OTHER EXPENSES All costs charges and expenses including any duty in connection with the Contract as well as preparations and completions of Agreement by MPT's attorneys shall be borne and payable by the Bidder. Bidder shall ascertain the taxes and duties to be paid on his own before the submission of the bid. All taxes & duties, to be paid to Govt. of India, Govt. of Goa or any statutory bodies shall be paid by the Contractor for stamp duty. The Developer shall ascertain the quantum of stamp duty applicable from the office of Sub Registrar
34			New Drawing		Drg. No. 20180319-2 has been enclosed herewith for reference
35			Annexure – VIII Details of Upfront payment and lease rent payable to MPT		Annexure – VIII Details of Upfront payment and lease rent payable to MPT Annexure-VIII has been modified in view of change in upfront payment and is enclosed herewith
36	4.1(b)	65	The following Conditions Precedent shall be satisfied by the Employer; Subsequently, the Employer will be obliged to fulfill the		The following Conditions Precedent shall be satisfied by the Employer; Subsequently, the Employer will be obliged to fulfill the following

			<p>following Conditions Precedent.</p> <p>(i) Handing over physical possession of the following Ports' Assets, subject to furnishing of Performance Security/Security Deposit, Upfront Payment, First Annual Lease Rent towards land and water area for:</p> <p>(a) Land area comprising of 26,550Sq. mtrs (Apprx.)</p> <p>(b) Water area comprising of 32,880 Sq. mtrs (Apprx.) and/or</p> <p>I the Port's Assets other than the Project Site, which is envisaged to be transferred to the Developer for the purpose of the Project, as indicated in the Appendix -1 of this Bid Document.</p>		<p>Conditions Precedent.</p> <p>(i) Handing over physical possession of the following Ports' Assets, subject to furnishing of Performance Security/Security Deposit, Upfront Payment, First Annual Lease Rent towards land and water area for:</p> <p>(a) Land area comprising of 34930 Sq. mtrs (Apprx.)</p> <p>(b) Water area comprising of 39458 Sq. mtrs (Apprx.) and/or</p> <p>Appendix -1 has been modified and enclosed herewith</p>
37	NIOT	6	<p>Online Documents required to be submitted by scanning</p> <p>a. EMD in the form of BG.</p> <p>b. Copy of documents viz. Financial Turnover, Auditor's report, Balance sheet, P/L account statement etc. Financial Turnover Certificate.</p> <p>c. Entire Tender document, each page and form duly signed and filled in.</p>		<p>Online Documents required to be submitted by scanning</p> <p>As per clause no. 2.7, Section –II</p>
38	2.7(vi)	23	<p>Bidder shall indicate annual financial turnover as per Annexure-III.</p>		<p>Bidder shall indicate net worth and annual financial turnover as per Annexure-III(Rev)</p>
39	1.9(c)	15	<p>The Earnest Money Deposit of unsuccessful Bidders shall be returned on award of Contract to the successful Bidder. No interest costs shall be payable on the amount of E.M.D in any case. The Earnest Money Deposit of the successful Bidder shall be refunded only on receipt of Security Deposit as stipulated in the tender.</p>		<p>The Earnest Money Deposit of unsuccessful Bidders shall be returned on award of Contract to the successful Bidder. No interest costs shall be payable on the amount of E.M.D in any case. The Earnest Money Deposit of the successful Bidder shall be refunded only on receipt of Security Deposit as stipulated in the tender and after deducting LD for non fulfillment of Condition Precedent, if any</p>
40	2.3(l)	21	<p>Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project;</p>		<p>Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the third anniversary of the commercial operation date of the Project;</p>
41	2.3(g)	21	<p>Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Annexure-VII (the "Jt. Bidding Agreement"), for the purpose of making the bid and submitting a Bid in the event of being short-listed. The Jt. Bidding Agreement, to be submitted along with the bid, shall, inter alia</p>		<p>Joint Bidding Agreement at Annexure-VII has been revised and enclosed herewith</p>