

“HIRE OF ONE NUMBER (TRACTOR/REVERSE TRACTOR OF CYCLOIDAL OR STEERABLE RUDDER PROPULSION SYSTEM INCLUSIVE OF AZIMUTH STERN DRIVE OR SRP (SCOTTLE)) HARBOUR TUG OF BOLLARD PULL 50 TON OR MORE AT 100% MCR FOR 05 YEARS TO MORMUGAO PORT TRUST”

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SI No.	Page No.	Clause No	Tender condition	Bidder Queries	Clarifications
1.	4	Estimate Cost to Tender	<p><u>NOTICE INVITING ONLINE TENDERS</u></p> <p>Estimate Cost to Tender Rs.26,47,70,000/-</p>	<p>(i) We understand that estimate cost to Tender is exclusive of GST. Kindly confirm.</p> <p>(ii) We wish to bring to your kind attention that the Estimate cost to Tender is very low considering the present market scenario wherein availability of Tug boats as required by the Port is rather scarce. Also in recent times, the Rupee devaluation against major currencies such as Dollar has significantly increased the cost of acquisition of tugs. We may draw your attention that the daily hire rates for 50 TP tugs in other major Ports such as JNPT, MbPT, VOCPT, NMPT in recent tenders are considerably higher.</p> <p>We are of the opinion that this significantly lower budgetary estimate would dissuade Bidders to participate in the tender and Port is running risk of retender due to non-participation/ lower participation which would result loss of precious time and effort of the Port. It is therefore request that Budgetary estimate is to be amended to higher level in line with our estimates submitted to the Port. We request your kind consideration of above.</p>	<p>Estimate is exclusive of GST</p> <p>Tender condition prevails</p>

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2.	4	NIOT; Security Deposit	<p>NIOT; Security Deposit 10 % of the annual hiring cost in the form DD/NEFT/RTGS or Bank Guarantee (BG) issued by a Nationalised Bank / Scheduled Bank except Co-operative Bank having its Branch at Vasco-da-Gama or Mormugao</p>	<p>i) We request that Bidders should be given an option to provide performance bank guarantee with validity of five years contract period and additionally a claim period of minimum 6 months.</p> <p>Kindly confirm.</p>	<p>Agreed. It will be the responsibility of the bidder to ensure that the BG remains valid throughout the contract period and a further period of six months beyond the completion of contract.</p>
38	12	ITT 6 (i) Fourth schedule (16)	<p>ITT; Sub Clause 6.1; SECURITY DEPOSIT; The contractor shall furnish Security Deposit equivalent 10% of annual hiring costhaving its Branch at Vasco-da-Gama or Mormugao, Goa in favour of the Financial Advisor & Chief Accounts Officer, MPT, payable at Vasco, Goa <u>BG shall be valid for 12 months with claim period of 6 months and shall be renewed every year for a period of 5years.</u></p> <p>Clause 16; PERFORMANCE BOND/ PERFORMANCE GUARANTEE: having its Branch at Vasco-da-Gama or Mormugao, Goa in favour of the Financial Advisor & Chief Accounts Officer, MPT, payable at Vasco, Goa. Bank Guarantee shall be renewed every year for a period of FIVE years with six months claim period.</p>	<p>(ii) We request that PBG issued by SBI at their Hyderabad branch to be accepted as recently it has been increasingly difficult to issue BG from the corresponding local branch due to lengthy procedures.</p> <p>Please consider.</p>	<p>Agreed. Bank should have its branch at Vasco –da- Gama or Mormugao.</p>

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3.	33 4	THIRD SCHEDULE SECTION 4 NIOT	<p>SECTION 4: PERIOD OF HIRE; The contract will be for 05(FIVE) years from the date of commencement of contract. The contract may be extended for further period of 2 years at the discretion of MPT at the same rate, terms and conditions by mutual consent. NIOT; The contract will be for 05(FIVE) years from the date of commencement of contract.</p>	<p>(i) We understand that contract can be extended for a firm period of 2 years after the initial term of 5 years as specified in Section 4 on page 33. Please confirm. (ii)Further, we request you to please exercise the option of extension with at least 180 days prior notice. This would give adequate time to the Contractor to look for an alternate deployment in case of no extension. Please confirm.</p>	Tender condition prevails
4.	5	NIOT	<p>NIOT; Bid Validity 180 days from the last date fixed for receiving the tender.</p>	<p>We understand that Bid validity period is counted from the last date of Bid submission. Kindly confirm.</p>	180 days from the date of technical bid opening

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12	ITT 5.3	<p>EARNEST MONEY DEPOSIT (EMD); Sub clause 5.3 In the event of Bidder withdrawing his tender before the expiry of tender validity period of 180 days from the date of opening of technical bid,</p>	<p>In some cases date of technical bid opening is delayed and the date may not be the same date as the last date of bid submission. Hence, Bidder can consider only a confirmed date such as last date of bid submission for validity of EMD etc.</p>	<p>Tender should remain valid for a minimum period of 180 days from the date of opening of technical bid.</p>
22	8(b)	<p>PRICES AND VALIDITY OF OFFER; Sub clause b; The rates quoted by the tenderer should remain valid for a minimum period of 180 days from the date of bid submission/ technical bid opening.</p>		
39	Fourth schedule (18)	<p>VALIDITY OF TENDERS: Tenders shall remain open for acceptance and shall remain binding on the tenderer for a period of 180 (One hundred and Eighty) days from the date of opening of the tenders.</p>		

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5.	75 21	APPENDIX -6 ITT 7 (e)	<p>APPENDIX-6 -Details Of Financial Capability Of The Tenderer, Instructions point no. 3</p> <p>Bidder shall work out Net worth on following basis: Net Worth: Reserve + Capital - Accumulated loss (Net-Worth of the Bidder should be positive for the latest financial year).</p> <p>Sub clause e)</p> <p>Tenderer required to submit latest Bank Solvency Certificate from any Nationalised Bank/ Scheduled Bank (except Co-operative Bank) addressed to FA&CAO, Mormugao Port Trust, for an amount of not less than Rs.2,11,81,600/-amounting to 40% of the estimated annual hire cost.</p>	<p>We understand that all the members of the consortium shall qualify on the Net worth and bank solvency criteria since these criteria would only ensure that bidders which are financially sound participating in the Bid and it will avoid issues which have recently put the Port operation at risk by insolvency of a Tug operator.</p>	<p>Tender condition prevails. However, submission of bank solvency is not applicable</p>
6.	5	NIOT	<p>NIOT; PQC / BIDDING CONDITION;</p> <p>1. The Bidder should having Average Annual Financial Turnover during the last Three (03) years ending 31st March 2019 should be at least Rs.1,58,86,200/-. Auditors report in original certified by CA or statutory auditors, for the years 2016-17, 2017-18 and 2018-19 including relevant P/L a/c and balance sheet shall be furnished.</p>	<p>(i) Please clarify the requirement of Original Certified Auditors report. This is to bring to your attention that normally a Financial Turn Over certificate issued by a CA or Statutory Auditors is submitted along with Audited report, P&L and B&S. Trust the same is acceptable. Please confirm.</p>	<p>Agreed , However audited reports, P & L and B & S shall be duly certified by Chartered Accountant or Notary in original</p>

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7.	5	NIOT PQC / BIDDING CONDITI ON	<p>NIOT; PQC / BIDDING CONDITION;</p> <p>1. The Bidder should having Average Annual Financial Turnover during the last Three (03) years ending 31st March 2019 should be at least Rs.1,58,86,200/-. Auditors report in original certified by CA or statutory auditors, for the years 2016-17, 2017-18 and 2018-19 including relevant P/L a/c and balance sheet shall be furnished.</p> <p>2. Bidder should have experience and successfully completed / completed portion of ongoing works, similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs during last seven years up to due date of submission of the tender as follows:</p> <p>i. Three similar completed works costing not less than Rs. 2,11,81,600/- each(or)</p> <p>ii. Two similar completed works costing not less than</p>	<p>A) We have noticed that Pre Qualification Criteria requirements have been significantly diluted in this Tender as compared to all your previous Tug hiring long term tenders and are not in line with the CVC stipulated guidelines which are followed by all other Major Ports such as Paradip Port, Vizag Port, Kamrajar Port, Chennai Port, Cochin Port, NMPT, MbPT, JNPT, etc.</p> <p>We observed that the Annual turnover, Bank Solvency and Similar experience criteria are based on estimated Annual contract value instead of total estimated contract value.</p> <p>The intention of financial criteria and experience criteria are to select the credible Tug operators who can deliver critical service deliverables such as</p> <ol style="list-style-type: none"> a. Timely delivery of tug b. Meeting day to day operational expenses which includes crew expenses, regular repair and maintenance, breakdown repairs, etc c. Uninterrupted service provision at the Port by handling exigencies insides/ outside port limits, mobilizing 	Tender condition prevails
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	21	ITT 7(e)	<p>Rs.3,17,72,400/- each (or)</p> <p>iii. One similar completed work costing not less than Rs.4,23,63,200/-.</p> <p>Note: Copies of the work order with completion certificate and in case of ongoing work, performance certificate for the completed portion to satisfy the above qualification criteria shall be furnished duly attested by Notary Public. Experience of having successfully completed / completed portion of ongoing works similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs during last 7 years up to due date of submission of the tender. In case no work completion certificate issued than TDS certificate, work orders copy, invoices copies can be considered to claim work experience.</p> <p>Sub clause e)</p> <p>Tenderer required to submit latest Bank Solvency Certificate from any Nationalised Bank/ Scheduled Bank (except Co-operative Bank) addressed to FA&CAO, Mormugao Port Trust, for an amount of not less than Rs. 2,11,81,600/- amounting to 40% of the estimated annual hire cost.</p>	<p>additional resources such as substitute tug within short notice and invest in training and retaining manpower for smooth operations.</p> <p>Further, kindly appreciate the contract worth of Rs 26.48 crores is to be awarded to a bidder who has average financial turn over for last three years is only Rs 1.58 crores and solvency is only upto Rs 2.12 crores. This is a gross underestimation of the roles and responsibility of the contractor to be performed under this tender and has the potential to risk the Port operations.</p> <p>Therefore, We request you to kindly amend the clause in line with previous Tug Tender as follows:</p> <p>1. “The Bidder should having Average Annual Financial Turnover during the last Three (03) years ending 31st March 2019 should be at least <u>7,94,31,000</u> /-.....”.</p> <p>2. Bidder should have experience and successfully completed <i>similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Oceangoing tugs for minimum period of 3 years during last 7 years ending March,2020 as follows:</i></p> <p>A) Three completed works under each work order costing not less than Rs. <u>10,59,08,000</u>(or)</p> <p>B) Two completed works under each work order costing not less than Rs.<u>15,88,62,000</u>/(or)</p>	<p>Tender condition prevails. However, latest bank solvency certificate is not required to be submitted.</p>
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				<p>C) One completed works under each work order costing not less than <u>Rs.21,18,16,000/-</u></p> <p><i>Note: Copies of the work order with completion certificate and incase of ongoing work, performance certificate for the completed portion to satisfy the above qualification criteria shall be furnished duly attested by Notary Public. Experience of having successfully completed similar works i.e. owning and operating Harbour tugs/Supply vessels /Anchor handling Tugs/Oceangoing tugs for three years during last 7 years ending 31st March,2020.</i></p> <p>3) Tenderer required to submit latest Bank Solvency Certificate from any Nationalised Bank/ Scheduled Bank (except Co- operative Bank) addressed to FA&CAO, Mormugao Port Trust, for an amount of not less than Rs. 10,59,08,000/-</p> <p>We draw your attention that the most recent Tender of NMPT had followed the standard criteria stipulated by CVC and still witnessed a large participation as much as four numbers of bidders (3 qualified) in their tender.</p> <p>Request you kindly amend the clauses as requested above.</p> <p>B)We may also draw your attention to the sentence “Incase no work completion certificate issued than TDS certificate, work orders copy, invoices copies can be considered to claim work experience.”</p> <p>Please note that no other Major Port accept such documents</p>	
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				as they do not in any way prove successful completion / performance of the contract. Hence, please modify the criteria as suggested in our request above.	
8.	5	NIOT; PQC / BIDDING CONDITION;	<p>2. Bidder should have experience and successfully completed / completed portion of ongoing works, similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs during last seven years up to due date of submission of the tender as follows:</p> <p>Note:.....owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs during last 7 years up to due date of submission of the tender. ...</p>	<p>(i) We draw your attention that generally a cut off date is stated until that date experience of the bidder is considered. Since bid submission dates are extended for various reasons and to bring in uniformity among all the bidders; we suggest in line with your earlier tug tenders the words “during last seven years up "to due date of submission of the tender” to be replaced with, “the last day of the preceding month of the tender notice of invitation i.e. 31st March 2020”. Please confirm.</p> <p>(ii)Further, the tender is silent on the minimum years of experience required during last 7 years. In the absence of such criteria, Tender becomes open for all and also allows bidders who have an inadequate experience in operations to participate in the Tender and has the potential to compromise the safety of operations at your facility.</p> <p>In view of the ports’ interest to have uninterrupted port operations we suggest that Bidder should have minimum 3 years of experience during last seven years which is in line with your last long term Tug hiring tender.</p>	Tender condition prevails
	14	MEC; Sub clause 2;	<p>MEC; Sub clause 2; similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Oceangoing tugs during last seven years upto due date of submission of the tender as follows:</p>		

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20	ITT 7(h)	<p>B) Test of Responsiveness; Sub clause h;</p> <p>..similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs during last seven years upto due date of submission of the tender as follows:</p>	<p>In view of above reasons, we request you to kindly amend the PQC similar experience clause as below, “Bidder should have experience and successfully completed similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs for minimum period of 3 years during last 7 years ending 31st March 2020 as follows:” Kindly confirm.</p>	
9.		<p>Additional Pre-qualification criteria</p>	<p>We have noticed that the following crucial Tender clause of the 2017 tug hiring tender has been removed in this Tender:</p> <p>“The Tenderer shall possess a tug by absolute ownership or a legally enforceable agreement for Charter/lease/ purchase to be submitted at the time of bid submission and not on the date of opening the price bid”.</p> <p>The above clause is very important to establish that the Bidder is the rightful owner or he has the requisite authority to bid with the tug offered by him under this tender. It is otherwise difficult for the Port to ascertain if the evaluated tug will be available to the Port post bid award and increases the risk of retender and timely availability of the tug.</p> <p>This is a compulsory clause in all the Major port tug hiring tenders. This forms part of Pre Qualification criteria.</p>	Tender condition prevails

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10.	5	<p>NIOT EMD</p>	<p>NIOT; Earnest Money Deposit (EMD) EMD can be submitted in the form of Bank Guarantee in addition to e-payment mode also (i.e. RTGS/NEFT/ECS/DD/Banker’s Cheque/ Net-banking and Debit / Credit Card Payment). EMD in the form of Bank Guarantee shall be submitted alongwith Confirmation letter of Bank before opening of the bid on 18.05.2020 at 11.30hrs in the office of the Dy. Conservator.....However, the firms who have registered under NSIC are granted exemption from the payment of EMD and these firms have to furnish the cost of tender document. <u>ITT; Sub Clause 5.1;</u> EARNEST MONEY DEPOSIT(EMD) EMD shall be submitted in the form of Demand Draft/ Banker’s Cheque or BANK GUARANTEE from Nationalized/Scheduled Banks....</p>	<p>(i)As you are aware that due to Covid 19 Pandemic crisis, Banks are operating with minimal staffs for extending basic banking services only. In the given circumstances, it might not be possible for us to arrange a BG from local branch in Goa since we do not have a direct banking relationship with them. However, it would be possible for us to arrange a BG from Hyderabad Branch. Trust this is acceptable.</p> <p>ii)We request you to please clarify the “confirmation letter” required from the Bank before the Bid submission. As a standard practice, the Port seeks a direct confirmation from the issuing Bank about genuineness of the BG by providing basic info such as BG number date and amount. Banks normally send an email confirmation. Trust this is acceptable.</p> <p>(iii) We are of the opinion that in case of participant is a consortium; EMD is to be submitted by the consortium if all the members of the consortium are not exempted under NSIC. Please confirm.</p>	<p>Agreed. However, the bank should have its branch at Vasco-da-Gama or Mormugao.</p> <p>Agreed</p> <p>Agreed</p>
	11	<p>ITT 5.1</p>			

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11.	5 35	<p>NIOT EMD</p> <p>FOURTH SCHEDULE (3)</p>	<p>NIOT; Earnest Money Deposit (EMD) EMD in the form of Bank Guarantee shall be submitted alongwith Confirmation letter of Bank before opening of the bid on 18.05.2020 at 11.30 hrs in the office of the Dy. Conservator.....without EMD, the tender will be rejected...</p> <p>FOURTH SCHEDULE; Clause 3; TENDERS; a) Tenderers shall deliver their tenders to: THE DEPUTY CONSERVATOR, MORMUGAO PORT TRUST, HEADLAND - SADA, GOA 403804, in accordance with the following requirements: (i) Tenderers shall submit their tenders together with all accompanying documents. (ii) All the above documents shall be delivered at the above address before the stipulated time shown in the Tender notice.</p>	<p>We understand that only EMD is to be submitted prior to the last date and time of opening of bid. Further, entire technical and Price Bid are to be submitted online only.</p> <p>Kindly confirm.</p>	Tender condition prevails
			<p>(c) Any tender delivered after the stipulated time arising from whatever causes will not be considered.</p>		

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12.	12	ITT 5.4	<p><u>ITT; Sub Clause 5.4:</u> EARNEST MONEY DEPOSIT (EMD) The EMD of the unsuccessful bidder other than L1 and L2 shall be refunded immediately after ranking of price bids. EMD of L2 shall be refunded immediately after entering into agreement with L1 and acceptance of performance guarantee or expiry of bid whichever is earlier. The EMD of second lowest evaluated bidder shall be kept in reserve and may be invited to negotiate to match the lowest evaluated bid, in case the lowest evaluated bidder withdraws his bid or not selected for any other reason.</p>	<p>Please note that the every Bidder’s quoted price reflects the cost of the Tug being offered by the particular bidder, their financing terms, operating costs etc.. It might not always be possible for L2 to match the Price quoted by L1. While we acknowledge the rights of the Port to negotiate with Bidders, we request that absolute requirement of matching to L1 should be removed/done away with.</p> <p>This tender term may lead to a situation wherein L2 may not able to match to L1 and consequently, tender will have to be scrapped or retendered which will have wider ramifications such as non-availability of a tug to meet Port’s operational requirement and loss of time and effort of the Port. Kindly consider our request.</p>	<p>Clause 5.4 at page 12 stands deleted. However, the EMDs of unsuccessful bidders shall be refunded immediately.</p>
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	22	ITT 10	Clause 10. LIQUIDATED DAMAGES: The tug shall be delivered within 60 days from the date of issue of Letter of Acceptance		
	25	First schedule	Sub clause 4; We undertake to enter into the Hire Agreement within 15(Fifteen) days of issue of Letter of Intent.		
	36	FOURTH SCHEDULE	FOURTH SCHEDULE; DEFINITIONS: GENERAL CONDITIONS; Sub Clause (i); “Commencement Period of tender” means the period from the date of issue of letter intimating acceptance of the tender or the Letter of Intent , which will mark the commencement of the tender period.		
14.	15 21	Test of Responsiveness	B) Test of Responsiveness; Sub clause d; The tenderer will submit a declaration that he has not been blacklisted or banned by any Central/State Government Authorities or PSUs as per Seventh Schedule (3). Sub clause j; The Bidder should not be black listed by any Government or Non-Government Organization as per SEVENTH SCHEDULE (3).	We request modification in the clause as follows in line with other Major Port Tug tenders: “ Tenderers shall give declaration on their not having been banned or de-listed or black listed by any government, semi-government agency or PSUs; otherwise their bid is liable to be rejected as ‘Nonresponsive’. ” Kindly confirm.	Tender condition prevails

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15.	17	Technical & Financial Capability	<p>Clause II. Technical & Financial Capability. The tenderer (whether a single entity or a consortium) must satisfy pre-qualification criteria as stipulated at MEC or in case of consortium at least one member should satisfy the MEC conditions.</p> <p>a) All joint venture agreements/ consortium agreements, technical collaboration agreement shall ensure that all parties of the joint venture/consortium are individually and jointly responsible for the tender conditions and such agreements are legally valid.</p>	<p>Since each of the JV/consortium partners is individually and jointly liable for the performance of the contract, it is of paramount importance that each of the Partners shall have experience and financial standing as if the contract can be individually performed in the absence of the other partners.</p> <p>In order to allow contractors who have at least some experience, many of the Major Ports such as <u>Paradip Port, Mumbai Port</u> has stipulated tender conditions wrt JV/ consortium participation that each of the JV/consortium partner must meet 26% of:</p> <ul style="list-style-type: none"> (i) Similar work experience stipulated for single Work i.e. 80% of the estimated contract value (ii) Average Financial Turn over criteria. <p>We strongly opine the above criteria safeguards the Port’s interest in case a JV/consortium uses the experience of a partner only to qualify in the bid and subsequently the experienced partner leaves the project. This would also not be fair and equitable for other honest/serious bidders those are being evaluated against such consortiums. We request MoPT to include the above criteria for evaluation of minimum eligibility of the bidders/ JV/consortium.</p> <p>In view of above, the clause may be amended suitably.</p>	Tender condition prevails
	15	Test of responsiveness			

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16.	17	Assessment of eligibility	<p>Clause III. Assessment of eligibility</p> <p>...In case of a Consortium, the combined Technical and Financial Capability of those members who have and shall have an equity share of at least 26% (twenty six per cent)each in the Special Purpose Vehicle (or SPV) as explained in this tender document, should satisfy the above conditions of eligibility, provided that each such member shall, for a period of FIVE years from the date of commencement of work for the said contract, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.</p> <p>Clause IV. Change in composition of the Consortium; Sub clause c(i);</p> <p>In case of substitution, the substitute is at least equal, in terms of Technical &Financial Capability, to the Consortium Member who is sought to be substituted....</p>	<p>We bring to your kind attention that Clause (iv) on Page 19 contradicts other tender clauses where the consortium members who have 26% equity share in the SPV and whose experience & financials have been considered for meeting eligibility criteria will have a lock in period of 5 years. Request modification of Sub clause IV.</p>	<p>Tender condition prevails. However, lock in period not required</p>
	19	Change in composition of the Consortium			

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17.	20		<p>Sub clause a, The tenderers should submit upto-date/latest Income Tax Clearance Certificate. Copies of the Income tax returns for last two years to be submitted.</p>	<p>Kindly delete the sentence “The tenderers should submit upto- date/ latest Income Tax Clearance Certificate” as there is no such clearance certificate issued by the Department. The Bidders are therefore required to submit only Copies of the Income tax returns for last two years. Please confirm.</p>	<p>Agreed.</p>
18.	21	38	<p>Sub clause (c); Technical specifications, drawings and other information pertaining to the tug to be offered on hire to Mormugao Port Trust should be submitted along with the tender. Attested copies of all class certificates, shop trial reports of machineries, builders certificate, statutory certificates issued by authorities, Certificate of Registry duly notarized, GA plan, applicable technical drawings, literature and detailed descriptions of the tug offered, other certificate needed for port operation, work procedure, schedules and periodic maintenance records should be submitted. Name of the tug to be disclosed. Clause 13; Documents And Samples To Accompany Tender:</p>	<p>We understand that following documents for are to be submitted along with Bid for the existing Tug:</p> <ul style="list-style-type: none"> • Certificate of Registry • Valid Class certificate (IACS) • GA Plan • Latest Bollard Pull test certificate as per Tender • Builder certificate if Class Certificate does not state Build Engine Manufacturers’ data/ Shop test record for Main Engine and Auxiliary Engine in support of 100% MCR fuel consumption. <p>Please confirm.</p>	<p>In case Tug is in the building stage, builder certificate is acceptable. However, wrt consumption of fuel for main engine and auxiliary engine, engine manufacturing data/test records/owner declaration shall be furnished</p>

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19.	22	LIQUIDATED DAMAGES	<p>Clause 10; LIQUIDATED DAMAGES:</p> <p>.. If the Contractor fails to deliver the tug in all respects within 60 days from the date of issue of Letter of Acceptance, liquidated damages at the rate of Rs. 1,00,000/- per day per tug or actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher will be levied on the Contractor for a further period of 30 days.</p> <p>..... However, Port reserves the absolute right for further extension of time for supply of tugs subject to payment of L.D. by the contractor @ Rs1,00,000/- per day per tug or actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher.</p>	<p>i) We draw your attention that delivery period is a key term of the Tender based on which a bidder decides to participate in the tender or not. If the Port has a discretionary power to allow late deliveries, then bidder may speculate basis Port will allow or not and may lead to performance failures, retendering etc post award of the contract.</p> <p>In view of the above, a clear and fixed delivery period shall be stipulated as is the practice in all the other Major Ports. We request that the highlighted sentence may be deleted.</p> <p>ii) In case if the Contractor not able to deliver the vessel due to Force Majeure, then we request Port to kindly exempt contractor from the payment towards the Liquidated damage. Please confirm.</p> <p>(iii) Please delete the words “or actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher” as LD shall always be ascertainable value and shall not impose unlimited liability on the contractor. We</p>	<p>Tender condition prevails. However, the wordings “actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher” stands deleted</p>
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				<p>request that LD is levied upto 30 days and beyond which the contract is to be terminated and Performance security is to be encashed.</p> <p>The purpose of Performance Security is that the liability of the contractor is predetermined and the Port has the right to encash it in case there is default on the part of contractor. Hence, aggregate liability should not exceed Performance security at any point of time. Kindly confirm.</p>	
20.	22	LIQUIDATED DAMAGES	<p>Clause 10; LIQUIDATED DAMAGES: Replacement with similar/better tug is allowed during the tenure of the contract.</p>	<p>Since the Contractor will have to provide a similar/ better tug for replacement, we request that restrictions as stated in sub clause c to be deleted.</p>	<p>Tender condition prevails. However, replacement during the contract shall be allowed with prior written approval of the Port with a Tug of similar / better specification at owner's cost.</p>
	30	THIRD SCHEDULE Sec. 2 (c)	<p>THIRD SCHEDULE; SECTION 2; SCOPE OF WORK; Sub clause c; Replacement during the contract is not allowed. Only, in case of major breakdown of the tug, the Port may allow replacement with a tug of similar/ better specification at owner's cost.</p>	<p>Kindly confirm.</p>	

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23.	50	FIFTH SCHEDULE; HIRE AGREEMENT	<p>FIFTH SCHEDULE; HIRE AGREEMENT;</p> <p>r) In the event of major breakdown of the said tug, the Port may allow replacement with a tug of similar/ better specification if the said tug is out of operation for a period longer than 07 (seven) days. The absence of the said Tug from duty for any period will result in losses of hire on pro-rata basis. If the Contractor is unable to provide a replacement tug, as stated above, the Port may provide a suitable tug at contractor's risk and cost and the "Mobilization and Demobilization" charges for which shall be borne by the Contractor.</p>	<p>i) We wish to bring to your kind attention that the availability of specialized tug as required under this Tender in the spot market is rather scarce. The process of identifying suitable tug, securing approval from the Principal to release the tug, mobilization to Mormugao Port etc. requires considerable time period and hence, short time frame of seven (7) days as allowed under the tender would be practically inadequate to place a replacement tug. Therefore, we request that at least 12 days for placement of substitute tug shall be provided to the contractor. Please note that timelines of <u>12 days</u> for providing substitute vessel is accepted in your earlier long term tug tenders. Kindly confirm.</p> <p>(ii) Further, we request that if the Contractor fails to provide a replacement and consequently, Port arranges for a Tug only additional cost implications shall be recovered from the Contractor. However, at no point of time, such recovery shall exceed 10% of the Annual Contract value in the form of PBG and the contract shall be terminated. Kindly confirm. Otherwise, the contract unfairly levies unlimited liability on the contractor beyond the performance security.</p>	Tender condition prevails
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				<p>salvage reward is to be shared equally between the Port and contractor after compensating additional expenses incurred by the contractor.</p> <p>2) Should there be any salvage operation which does not involve any salvage reward to any party and Salvage job is carried out at the instruction of the Port, we request that Port shall CONFIRM that</p> <ul style="list-style-type: none"> (i) Contractor would enjoy full immunities as enjoyed by the Port Tugs while assisting in salvage operations, even if caused due to the failure of the tug, or the errors of the master / crew , also (ii) Owners of the assisted vessel shall indemnify the Contractor for and against damages, losses, injury, death of their personnel and all third party claims (iii) Port shall reimburse the cost of additional insurance, manning cost, if any incurred for such operations since standard insurance covers do not cover these specialized jobs. <p>Kindly confirm.</p>	
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28.	30	THIRD SCHEDULE SECTION 2	<p>THIRD SCHEDULE SECTION 2: SCOPE OF WORK:</p> <p>b) All operational costs including wage, allowances, PF, victualling, insurance (personal, hull & machinery, protection & indemnity etc.) will be at owner’s account. Statutory dues to be paid as applicable or else payments from bills to such extent shall be withheld.</p>	<p>Recognizing the fact that many of the stated compliances such as PF, ESI are not applicable for a marine contract of hiring tugs which is rather governed by MS ACT, Port had clarified in the one of the previous tug tender that “Statutory dues to be paid as applicable or else payments from bills to such extent shall be withheld.”</p> <p>However, this clarification coexists with the original clause and hence ambiguity.</p>	<p>Agreed. However, Contractor shall comply with the laws, rules and regulation and statutory requirements as applicable and also submit contribution towards Seamen’s Provident fund and P & I Insurance.</p>
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33	SECTION 5:LOCAL LAWS:3	<p>SECTION 5:LOCAL LAWS:3rd Para The contractor shall also comply with Provident Fund Rules and enroll themselves with PF Commissioner/ESI Authorities. Statutory dues to be paid as applicable or else payments from bills to such extent shall be withheld.</p> <p>FIFTH SCHEDULE - HIRE AGREEMENT Sub clause j.....on submission of certificate of satisfactory service from the Deputy Conservator and also PF & ESI. A day to be considered from 12 noon to 12 noon to the next day. Statutory dues to be paid as applicable or else payments from bills to such extent shall be withheld.</p>	<p>Request clarification to be issued that Contractor shall comply with the laws, rules and regulation and statutory requirements as applicable.</p>	
29.	30	<p>THIRD SCHEDULE; SECTION 2</p> <p>THIRD SCHEDULE; SECTION 2; SCOPE OF WORK; Sub clause e; Security will be given to the hired tug only during agitation, strikes.</p>	<p>We understand that security within the Port premises is the responsibility of the Port. The contractor will not be able to make any security arrangements within the Port limits as this comes under CISF. Please confirm.</p>	<p>Tender condition prevails</p>
30.	31	<p>THIRD SCHEDULE; SECTION 3</p> <p>OUTLINE SPECIFICATIONS; L.O.A 35 meters plus or minus 5 meters is acceptable.</p>	<p>This is to bring to your attention that a Tug of more than 35 meters will have issues w. r. t close maneuver and will also have issues w. r. t handling smaller size vessels.</p>	<p>LOA shall not be more than 40 meters.</p>

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33.	32	THIRD SCHEDULE; SECTION 3	<p>OUTLINE SPECIFICATIONS; S.D. Circular – 2/2002 dated 08/11/2002 of Directorate General of Shipping is part of the tender. Enclosed in Seventh Schedule (1).</p>	<p>Please amend the highlighted portion as follows: S.D. Circular – 2/2002 dated 08/11/2002 of Directorate General of Shipping and <u>amendments thereto</u> is part of the tender. Enclosed in Seventh Schedule (1).</p>	Agreed
34.	33	THIRD SCHEDULE; SECTION 3	<p>OUTLINE SPECIFICATIONS; Suitability - Tug should have provision for handling deploy support facilities to rig /lay /put the Oil spill Response Boom around the vessel within the Port limits oil spill site and remove it after its operations.</p>	<p>We draw your attention that assisting in oil spill response is a specialized job and requires additional insurance cover on case to case basis should the Tug is to be used for containment operations in actual spillage. We request that additional insurance cost shall be borne and paid by the Port and consent of the Tug owner shall be obtained prior such deployments. Kindly confirm.</p>	Clause stands revised as : Tug should have provision for handling deploy support facilities to rig /lay /put the Oil spill Response Boom around the vessel within the Port limits oil spill site and remove it after its operations.

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36.	38	FOURTH SCHEDULE; E; (17)	<p>Clause 17; AGREEMENT; (ii) The cost of stamping the contract Agreement and cost of preparation of contract document (1 original + 4 copies) must be borne by the successful Bidder. Stamp paper of Rs.1000/- shall be purchased from the Local authorized vendor in Goa for the purpose of contract agreement.</p>	<p>Since Agreement will be executed in duplicate i.e. 2 numbers, we assume each Agreement will be executed on Rs 1000 stamp papers/franking charges paid. Please confirm.</p>	<p>Agreed. Cost to be borne by the successful Bidder.</p>
37.	39	FOURTH SCHEDULE; E; (22)	<p>Clause 22; Free shore power shall be provided to the Tug when tug is idling at the jetty or berth and if such arrangements are not available, then tug has to make those arrangements on board to synchronize with the shore power facilities available with the port. Port shall provide 3-phase, 415V, 50Hz power supply. Plug suitable for drawing power from the port provided socket point shall be arranged by the contractor. If the tug runs on its Auxiliary engines due to his inability to adhere to aforesaid conditions, then the fuel consumed shall be on Contractor’s account.</p>	<p>We understand that the Port shall be responsible for junction Box near to Tug berthing area. All cables and other equipment for connecting to the junction would be responsibility of contractor.</p> <p>In case, if shore power supply facility is not available, Tug will have to run Auxiliary Engine and the fuel will be on Ports account.</p> <p>Please confirm.</p>	<p>Agreed</p>

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			maintenance work (i.e. work /repairs includes dry docking / hull inspection and survey.		
40.	40	FOURTH SCHEDULE; (25)	<p>Clause 25. PENALTY;</p> <p>h) All relevant stakeholders should decide the penalty to be imposed on the vendor in the following scenarios:</p> <p>a. Failure to deliver tugs</p> <p>b. Incorrect specifications of the substitute tug</p> <p>c. Inoperative tug</p> <p>d. Fall in bollard pull power, with no provision of a substitute tug.</p> <p>e. Others</p>	<p>We request the deletion of this subclause (h) which is completely open ended and contravenes many of other tender clauses:</p> <p>a) Failure to deliver tugs: tender has specific clauses specifying penalty for not delivering the tug at the commencement and during the contract. Hence, this is redundant and conflicts with such other clauses.</p> <p>b) In correct specifications of substitute tug: Tug will not be accepted and hence, not availability of tug clause will be applicable. Clause has specific penalty and provision.</p> <p>c) In operative tug: again non-availability of tug clause will be applicable. Clause has specific penalty and provision.</p> <p>d) Fall in Bollard pull: Clause in Hire Agreement already provides for penalty provision, hence redundant.</p> <p>e) Others: No specific and hence to be deleted</p>	<p>Tender condition prevails. However , sub clause h) stands deleted.</p>

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	43	FOURTH SCHEDULE; (28)	<p>Clause 28; Discretionary testing by ports in case of fall in performance:</p> <p>a) The port reserves the right to carry out Bollard Pull test of the tug at its discretion at any time during the validity of contract.</p> <p>d) Tug shall be providing stipulated Bollard pull throughout the year and it should be established by approved test every year.</p>		
42.	44	FOURTH SCHEDULE; (31)	<p>Clause 31; INSURANCE;</p> <p>a) During the hire period the tug/s shall be kept insured by Contractors at their expenses for insurance on Hull & Machinery as per Institute Time Clause- Hull dated 01.10.1983 with 3/4th Collision Liability amended to 4/4th Collision Liability with ITC-Port Risk extension dated 20.07.1987 with war risk.</p>	<p>We wish to state that as per recent Industry practices, Tug owner covers 4/4 collision and ITC-Port Risk extension with P&I insurance club which is better placed to address these claims.</p> <p>Trust this is acceptable to you.</p>	Agreed

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43.	50	FIFTH SCHEDULE; HIRE AGREEMENT	<p>FIFTH SCHEDULE; HIRE AGREEMENT;</p> <p>o) The Board has the right to terminate the contract/agreement at any time within the Hire period for reason of a breach of any conditions of contract.</p>	<p>a) We request that the Contract shall not be terminated for any reason other than substantial / material breach of the terms of the contract and after providing a reasonable remedy/cure period to the contractor. If contractor fails to rectify within the cure period, contract can be terminated with 30days notice.</p> <p>Kindly confirm.</p>	Tender condition prevails
44.	62	Integrity pact	<p>Integrity pact; Clause 7. Fall Clause</p> <p>7.1 The BIDDER undertakes that it has not performed/is not performing similar project at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India or PSU and if it is found at any stage that similar project was performed by the BIDDER to any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the 'BUYER/EMPLOYER', if the contract has already been concluded</p>	<p>We are of the opinion that the stated clause is not applicable to tenders for hiring of Tug boats and should be entirely removed for following reasons:</p> <p>1) No two Tug boats are similar – Technical Specification Specification of Tug boats such as year and place of building, Bollard pull capacity, speed, main engines & propulsion system, external firefighting capacity, towing arrangements etc. varies from one Tug boat to. Since the cost of acquisition of Tug boats is primarily dependent on the specification of Tug boat, the cost of acquisition differs and thus, daily charter hire for Tug boats will not be same for all tug boats.</p> <p>2) Time of acquisition of Tug boats – Demand & Supply Major Ports provide a short delivery period which forces the Bidders to depend on the second hand International Sale & Purchase Market to source these Tug boats. While availability of Tug boats is limited, finding a Tug boat of exact match of Port’s requirement is even difficult. Unpredictable demand & supply</p>	Tender condition prevails

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				<p>situation in the International Market drives the cost of acquisition of Tug boats and thereby, the price quoted by the bidder reflects the prevailing market scenario at the time of that particular tender floated by a Major Port. Therefore comparing charter rate offered by a service provider at one Port to another Port is misleading and unjustified.</p> <p>3) Time of acquisition of Tug boats – Forex Fluctuations Since most of these high capacity Tug boats are imported from International Market, the fluctuation of Indian Rupee against Major currencies plays a pivotal role in determining the Capital cost of these tug boats in Rupee terms and thus charter rate. In recent times, the Rupee depreciation against United States Dollar has significantly increased the Capital cost of these Tug boats. Foreign currency fluctuation also impacts the cost of imported spare parts for these Tug boats which is also factored in considering the prevailing currency market scenario at the time of bid submission.</p> <p>4) Manpower Cost: While the Tug boats are manned as per the Safe manning Document issued by the DG Shipping, the category, experience and number of crew also changes from time to time and therefore, cost of manning which is a part of daily charter hire rate is dependent on prevailing manning</p>	
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				scale. 5) Tender specific terms and conditions: The stringent terms and conditions of some of the Ports such as requirement of mobilizing substitute vessel for a short term unavailability of Tug boat, restrictions on usage of maintenance time, higher penalty rate etc. also plays a huge role while quoting the daily charter rate to a Port.	
45.	39	FOURTH SCHEDULE (24)	<p>General Terms and conditions; Clause 24: Force Majeure</p> <p>Neither party shall be liable for any loss, damage or delay due to any of the following force majeure events and/or conditions to the extent the party invoking force majeure is prevented or hindered from performing any or all of their obligations under the charter party, provided they have made all reasonable efforts to avoid, minimize or prevent the effect of such events or stroke or conditions:</p> <p>(a) Acts of God.</p> <p>(b) Any Government requisition, control, intervention, requirement or interference.</p> <p>(c) Any circumstances arising out of war threatened act of war or war like operation, act of terrorism, sabotage or piracy or consequences thereof.</p> <p>(d) Riots, civil commotion, blockaded or embargoes.</p> <p>(e) Epidemics.</p> <p>(f) Earthquakes, landslides, flood or other extra ordinary weather condition.</p>	<p>Please appreciate that in certain circumstances, the parties may not be in a position to fulfill their obligations even if the Force Majeure event may have ended. To clarify, the Force Majeure event may have consequences or effects which may prevent the party from carrying out its obligation. Accordingly, we request that the clause be modified to include the effects/ consequences which materially or adversely impact the ability of a party to perform.</p> <p>“Neither party shall be liable for any loss, damage or delay due to any of the following force majeure events and/or conditions <u>Including its effects or consequences</u> to the extent the party invoking force majeure is prevented or hindered from performing any or all of their obligations under the charter party, ……….”</p> <p>We further request you to include ‘pandemic’ and ‘cyclone’ to the list of Force Majeure events.</p> <p>Please confirm.</p>	<p>Tender condition prevails. However, pandemic is included at (e) Epidemics and cyclone is covered under (a) Acts of God</p> <p>Tender condition prevails</p>

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			<p>(g) Strikes, lockouts or other industrial action, unless limited to the employee of the party seeking to invoke force majeure.</p> <p>(h) Fire, accident, explosion except where caused negligence of the party seeking to invoke force majeure.</p> <p>(i) Any other similar cause beyond reasonable control of either party.</p> <p>The party seeking to invoke force majeure shall notify the other party in writing within two working days of the occurrence of any such event/condition. In case Force Majeure conditions persist for a continuous period more than 30 days, either of the party shall have the right to terminate the contract by giving 15 days’ notice.</p>		
46.	41	FOURTH SCHEDULE (26)	<p>General Terms and Conditions; Clause 26: Amicable Settlement</p>	<p>Please note that having multiple levels of dispute resolution mechanisms would only delay the resolution for various reasons such as consensus on appointment of the members, timelines, etc. as and also result in additional costs to the Parties. Accordingly, we request that the parties may first attempt to settle the dispute by mutual amicable settlement (without a conciliation committee) failing which, matter may be referred for arbitration.</p> <p>Please confirm.</p>	Tender condition prevails

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47.	41	FOURTH SCHEDULE (27.1)	<p>General Terms and Conditions; Clause 27; 27.1. SETTLEMENT OF DISPUTES</p> <p>(i) If any dispute of difference of any settlement of kind whatsoever shall arise between the Deputy Conservator and the Contractor in connection with or arising out of the contract or the carrying out of the works (whether during the progress of the works, after the termination, abandonment of or breach of the contract) it shall in the.....</p>	<p>We have summarized our concerns with the said clause as under:</p> <p>(i) This clause is in contradiction with clause 27.3 ARBITRATION that sets out the procedure for dispute resolution in accordance with the statute.</p> <p>(ii) Without prejudice to the above, the procedure set out in the clause is very lengthy and time consuming.</p> <p>(iii) Further, In the event of dispute between the Port and the contractor, the Deputy Conservator/ Chairman cannot act as a decision makers and the ultimate decision cannot lie with an arbitrator appointed by the chairman as an element of conflict is involved which is unfair to the contractor.</p> <p>In view of the above, we request that this clause be deleted entirely and the dispute resolution process be carried out in accordance with Clause 27.3 read with clause 26 Amicable Settlement.</p>	Tender condition prevails
48.	42	FOURTH SCHEDULE 27.2	<p>General Terms and Conditions; Clause 27; 27.2 EXTENSION OF TIME</p>	<p>We are of the opinion that this specific clause is applicable for Works contract and hence, not applicable. Kindly delete the clause.</p>	Tender condition prevails
49.	42	FOURTH SCHEDULE 27.3	<p>General Terms and Conditions; Clause 27; Sub clause 27.3; ARBITRATION;</p> <p>Disputes if any, both between MPT and the Contractor on either side as claimant thereof during the currency of the Contract or after the completion of the work or abandonment thereof shall be settled in accordance with</p>	<p>We have summarized our concerns with the said clause as under:</p> <p>(i) Please note that the dispute resolution process should be fair and equitable to both parties. Hence the matter cannot be resolved by an arbitrator appointed by a party to the dispute or referred to parties solely chosen by a party to the dispute.</p> <p>(ii) Neither party is responsible to the other once the work is</p>	Tender condition prevails

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		<p>Indian Arbitration & Conciliation (Amendment) Act, 2015 or any statutory modification or re-enactment thereof and rules made there under and for the time being in force shall apply to arbitration proceedings under this Contract. The disputes so raised shall be referred to sole Arbitrator to be appointed by Chairman. The arbitration proceeding shall take place in Goa or at Administration Building, MPT only, and the same shall be under jurisdiction of High Court of Goa.</p>	<p>completed i.e., the agreement expires in accordance with its terms as agreed between the parties.</p> <p>(iii) The High Court of Bombay exercises jurisdiction over Goa.</p> <p>In view of the above, we request that the clause be modified in the following manner: Disputes if any, both between MPT and the Contractor on either side as claimant thereof during the currency of the Contract or after the completion of the work or abandonment thereof shall be settled in accordance with Indian Arbitration & Conciliation (Amendment) Act, 2015<u>1996</u> <u>as amended from time to time</u> or any statutory modification or re-enactment thereof and rules made there under and for the time being in force shall apply to arbitration proceedings under this Contract. The disputes so raised shall be referred to sole Arbitrator to be appointed by Chairman. The arbitration proceeding shall take place in Goa or at Administration Building, MPT only, and the same shall be under jurisdiction of High Court of <u>Bombay at</u> Goa.</p>	
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50.	42	FOURTH SCHEDULE E 27.4	<p>General Terms and Conditions; Clause 27;</p> <p>Clause 27.4; DEFAULTS & TERMINATION</p> <p>1. Default :</p> <p>c) If the Port feels that the services of the tug are no longer required.</p>	<p>The assets procured for performing the contract are highly capital intensive in nature and are procured exclusively for this specified contract as the Vessel need modification specifically to meet the tender requirements.</p> <p>Therefore, depending on the tenure of the contract, prices offered in the tender are calculated. Any reduction/early termination would seriously affect the price offered by the contractor. The Contractor not only loses revenue for the balance period but also, the daily hire rates offered by the Contractor would not be viable for shorter tenure of contracts. Also, the bankability of this contract is adversely affected by such clause.</p> <p>We request that the Contract shall not be terminated for any reason other than substantial breach of the Agreement and Contractor’s continued failure to perform/willful misconduct or gross negligence.</p> <p>In view of above we request you to kindly delete the clause “If the Port feels that the services of the tug are no longer required”.</p>	Tender condition prevails
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51.	42	FOURTH SCHEDULE 27.4	<p>General Terms and Conditions; Clause 27; Clause 27.4; DEFAULTS & TERMINATION</p> <p>1. Default: Occurrence of any one or more of the following will be considered as event of default:</p> <p>a) In case the completion of the work cannot be effected within completion period.</p> <p>b) Contractor fails to execute the terms and conditions of the contract and obligations under the contract within the period as specified in the contract, or any extension granted by the Board.</p> <p>c) If the Port feels that the services of the tug are no longer required.</p> <p>2. Termination</p> <p>(a) <u>If the contractor fails to complete the subject work during the contract period or extension period within notice period or extension the work order will stand cancelled, and security deposit will be forfeited.</u></p> <p>(b)</p> <p>(c)</p> <p>(d)</p>	<p>With regard to Sub clause 1 (a), 1(b) and Clause (2) of Clause 27.4 This is a tender for deployment of a tug boat for a certain period and there is not “project” or “completion of work” per se as the present agreement is not a works contract. Therefore, there cannot be a “completion of work” during the contract or extension period.</p> <p>We request this clause to be entirely deleted.</p>	Tender condition prevails
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52.	43	FOURTH SCHEDULE 28	Clause 28; Discretionary testing by ports in case of fall in performance:	<p>While we agree that the Port has the right to conduct tests in case Port feels the performance of the Tug has deteriorated, however all the concerns of the Port under this clause have already been covered under various clauses of this Tender. This clause is redundant and contradicts other standard clauses of the Tender. Hence, request deletion of this clause in entirety.</p> <p>Further wrt “Similar adherence is expected for other operational metric tests such as engine health test, manoeuvrability test etc.” does not communicate any specific objective to be achieved. Tug duly technically approved is not to be rejected with maneuverability test. Should the crew is incompetent, then the tender has provision for change of crew if the Port is unhappy with them. Request deletion of this clause entirely.</p>	Tender condition prevails
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53.	46 48	FIFTH SCHED ULE	<p>FIFTH SCHEDULE; Specimen Bank Guarantee for Performance Guarantee</p> <p>FIFTH SCHEDULE; SPECIMEN BANK GUARANTEE FOR EARNEST MONEY DEPOSIT(EMD)</p>	<p>We wish to bring to your kind attention that our principal Banker SBI has been insisting for addition of the below mentioned two clauses in all of their Bank Guarantees :</p> <p>1) “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).”</p> <p>2) “Notwithstanding anything to the contrary contained in any law for the time being in force or banking practice, this guarantee shall not be assignable or transferable by the beneficiary. Notice or invocation by any person such as assignee, transferee or agent of beneficiary shall not be attained by the Bank. Any invocation of guarantee can be made only by the beneficiary directly”</p> <p>We trust the above is acceptable to you.</p>	Tender condition prevails
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54.	47	FIFTH SCHEDULE	SPECIMEN BANK GURANTEE FOR PERFORMANCE GUARANTEE/SECURITY DEPOSIT	Kindly delete the words “ This Guarantee shall be valid up to unless extended on demand by the Board.” Bank will not on its own extend the BG if demanded by the Port. Any request for extension shall be routed via Contractor.	Tender condition prevails
55.			Additional Clauses to be included as per Standard Tug contract	We request that the overall liability of the Contractor shall be restricted to the performance Security of 10% of the annual contract value provided under the contract. Further, Neither party shall be liable to the other for any consequential damages whatsoever arising out of or in connection with the performance or non-performance of this Contract, and each party shall protect, defend and indemnify the other from and against all such claims arising there from. Kindly confirm	Not agreed.
56	4	NIOT	Tender Cost - Rs. 5900/-	1. As per Para 10 of Public Procurement Policy dated 26.03.2012 it is mandatory to provide exemption to Small Scale units registered under NSIC. Please refer the above policy and provide necessary exemption to NSIC registered units.	Exemption not applicable at MPT
57	14	MEC	Auditors report in original certified by CA or statutory auditors, for the years 2016- 17, 2017-18 and 2018-19 including relevant P/L, a/c and balance sheet.	Unaudited financials for last 3 years duly certified by notary or Chartered Account may be submitted in compliance with this para.	Unaudited Reports only in case of non company with turnover of less than rupees one crore duly certified by CA or Notary in original
58	21	ITT 7 (d)	Technical specifications, drawings and other information pertaining to the tug to be offered on hire to Mormugao Port Trust should be submitted along with the tender.	1. Various statutory certificates of vessel under construction viz class certificates, builders’ certificate, Certificate of Registry etc may be submitted after LOA but before	Agreed. However, In case Tug is in the building stage, builder

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			Attested copies of all class certificates, shop trial reports of machineries, builders certificate, statutory certificates issued by authorities, Certificate of Registry duly notarized, GA plan, applicable technical drawings, literature and detailed descriptions of the tug offered, other certificate needed for port operation, work procedure, schedules and periodic maintenance records should be submitted. Name of the tug to be disclosed.	<p>deployment of tug. Please confirm.</p> <ol style="list-style-type: none"> 2. Work procedure, schedules and periodic maintenance records may not be submitted as vessel is a new built vessel, please confirm. 3. Name of the tug is to be decided yet. Hull No., yard no. may be submitted, please confirm. 	certificate is acceptable. Also, wrt consumption of fuel for main engine and auxiliary engine, engine manufacturing data/test records/owner declaration shall be furnished
59	21	ITT 7 (e)	Tenderer required to submit latest Bank Solvency Certificate from any Nationalised Bank/ Scheduled Bank (except Co-operative Bank) addressed to FA&CAO, Mormugao Port Trust, for an amount of not less than Rs. 2,11,81,600/- amounting to 40% of the estimated annual hire cost.	Requirement of submission of Bank Solvency Certificate may be waived off.	Latest bank solvency certificate is not required to be submitted.
60	21	ITT 7 (i)	The bidder shall submit copy of valid GST Registration Certificate, PAN, EPF registration and ESI registration number.	Tug crew is governed by Merchant Shipping Act and therefore EPF and ESI are not applicable. Requirement to EPF and ESI no. may be waived off.	Contractor shall comply with the laws, rules and regulation and statutory requirements as applicable and also submit contribution towards Seamen’s Provident fund and P & I Insurance.
61	22	ITT 9	The tenderer shall deliver the Tug within 60(Sixty) days from the date of issue of LOA.	<p>Please note that due to current COVID 19 restriction it may not be possible for the bidders (specially who are procuring the tug from abroad) to meet these timelines and therefore the same may be amended as below:</p> <p>The tenderer shall deliver the Tug within 90(Ninety) days from the</p>	Tender condition prevails

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				date of issue of LOA or lifting of COVID -19 restriction, whichever is later.	
62	22	ITT 10	Better tug means tug meeting the basic tender requirements and having the same bollard pull, same fuel consumption and same propulsion system.	Requirement of Same Propulsion system needs to be modified to any other acceptable propulsion system.	Propulsion system shall be any one of the propulsion system specified in the tender.
63	22	ITT 10	If the Contractor fails to deliver the tug in all respects within 60 days from the date of issue of Letter of Acceptance	Consider COVID -19 restriction this clause may be amended as below: If the Contractor fails to deliver the tug in all respects within 90 days from the date of issue of Letter of Acceptance or lifting of COVID-19 restriction, whichever is later	Tender condition prevails
64	22	ITT 10	liquidated damages at the rate of Rs. 1,00,000/- per day per tug or actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher will be levied on the Contractor for a further period of 30 days.	Please note that prescribed LD rate is very high and may be amended as per below: liquidated damages at the rate of 10% of daily charter hire rate per tug will be levied on the Contractor for a further period of 30 days.	Refer Sr. No. 19
65	23	ITT 12	This shall be duly supported by the engine manufacturer’s data (shop trial) authenticating their fuel consumption at 100% MCR for both main engines and auxiliary /DG engines.	Owners' declaration may be submitted as an alternative to shop trial report.	Agreed
66	30	THIRD SCHEDULE SEC. 2	<u>Replacement during the contract is not allowed. Only, in case of major breakdown of the tug, the Port may allow replacement with a tug of similar/better specification.</u>	Highlighted portion may be substituted as under: <u>Replacement during the contract shall be allowed with prior written approval of the Port which shall not be denied unreasonably, the Port may allow replacement with a tug of similar/ better specification.</u>	Replacement during the contract shall be allowed with prior written approval of the Port with a Tug of similar / better specification at owner’s cost.

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67	31	THIRD SCHEDULE SEC.3	Length of Tug	Tug having a length of Minimum 25 Meters may be submitted for the tender. Please confirm.	LOA shall not be more than 40 meters.
68	31	THIRD SCHEDULE SEC. 3	Tug shall be providing stipulated Bollard pull throughout the year and it should be established by approved test every year.	Bollard Pull test to be conducted as per DG guidelines or in case if port is of the opinion that tug is not performing with full BP capacity. Charter hire for the time taken for BP Test shall be payable by the port.	Tender condition prevails. However, time taken for bollard pull test shall be to Port’s account.
69			Foreign Flag Vessel	Kindly confirm whether foreign flag vessel may be submitted under this bid.	As per DG Shipping circular No. 2 of 2002 dtd 08.11.2002
70	31	THIRD SCHEDULE SEC. 3	The class notation FiFi I means that the vessel is to be equipped with minimum 2 fire monitors, able to throw water to a minimum distance of 120 meters from the vessel and to a height of minimum 45 meters.	Whether tug equipped with fire fighting equipment without having such class notation may be submitted. Clause to be amended as below: Previously, in the tender no. – e- Tender no. DC/S(18)/2019/6 the following clause was used and the same may be applicable for this tender also. GS/ Fire Pump. Fire Fighting Specifications: GS/Fire pump should of dual- purpose fire monitor suitable for foam and water. The capacity of fire pump should be of minimum 500 CuM/hr. Form tanks shall be capable of storing at least 8.0 m3 of AFFF foam. Foam will be replenished by the board free of cost if foam is used for fire fighting ordered by Deputy Conservator/ Harbour Master.”	Fire Fighting Specifications: GS/Fire pump should of dual- purpose fire monitor suitable for foam and water. Remote operations from bridge. The capacity of fire pump should be of minimum 500 CuM/hr. Form tanks shall be capable of storing at least 8.0 m3 of AFFF foam. Foam will be replenished by the board free of cost if foam is used for fire fighting ordered by Deputy Conservator/ Harbour Master.”

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71			Para 6: Price Quotation in Tenders: In tender, participating Micro and Small Enterprises quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a Micro and Small Enterprise and such Micro and Small enterprise shall be allowed to supply upto 20% of total tendered value.	Government of India has notified public procurement policy on 26.03.2012. Kindly confirm whether preference as provided under para 6 will be available to micro and small enterprises participating in this tender. Please also confirm, whether preference under para 6 shall be extended to Micro and Small Enterprises participating in this tender with a foreign flag vessel.	Tender condition prevails
72				Port to reimbursement the cost borne by the owners due to any foreign object obstructing the propeller, damaging the hull or any other under water machinery.	Not agreed.
73				<u>Sir, as you are aware that Gol has already extended the complete lockdown of the country for a further period of 14 days i.e. upto 17th May, 2020 and we being in red zone area finding it very difficult to complete the documentation in such restriction, therefore you are requested to kindly extend the timelines as provided under this tender for a further period of at least 14 days or complete ease out of lockdown restrictions as placed by the Government of India.</u>	Not agreed. Tender condition prevails.
74	4		Tender Cost - Rs. 5900/-	Whether Exemption is available to Micro and Small units.	Exemption not applicable at MPT
75			MSME registration of Bidder	Registration certificate has expired and can't be renewed due to current lockdown. Necessary exemption may be granted to MSME units with a condition to submit renewed registration certificate within 90 days (or any other reasonable timeline) from completion of lockdown period. Please confirm.	Central Govt. orders will be applicable.
75	5		Auditors report in original certified by CA or statutory auditors, for the years 2016- 17, 2017-18 and 2018-19 Including relevant P/L, a/c and balance sheet.	Unaudited/ audited financials may be submitted without certification. Please confirm. Due to lockdown, we are unable to find necessary resource for certification.	Audited financials for last 3 years duly certified by notary or Chartered Account may be submitted

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76				<p>MSME registration certificate has expired and cannot be renewed as government offices are not working due to COVID-19 lockdown. Whether exemption may be availed based on the expired certificate with a condition to provide renewed certificate within timeline as may be prescribed by the Port.</p>	<p>Central Govt. orders will be applicable.</p>
77	15 to 20		<p>Joint Venture/ Consortium</p>	<p>Whether combined financials and work history of both the parties may be considered for MEC eligibility.</p> <p>Whether a separate SPV is mandatory to be formed by two JV partners to participate in the said tender or both the parties may enter into an agreement for participating in the said tender.</p> <p>Kindly clarify conflict of interest and how it will affect the tender participation.</p> <p>We would like to quote an example for more clarity: Company 'X' a newly incorporated company without having any past experience or financials wants to participate in the said tender. Mr.'Y' is one of the Director in the said company 'X' holding 50% shareholding of the Company. Mr. 'Y' is also the proprietor of a firm 'Z', firm 'Z' duly complies with the Minimum Eligibility Criteria as prescribed under the tender. Whether Company X and Proprietary concern 'Z' jointly participate in the said tender, after entering into a JV agreement?</p> <p>Will there be any conflict of interest applicable here as Mr. 'Y' is a director in the company 'X' and is also the Proprietor of Firm 'Y'?</p> <p>Whether Company X and Firm Y needs to form a new SPV for participating in the said tender?</p>	<p>Tender condition prevails</p>

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78			Ownership of Tug	<p>We have identified one tug owned by an offshore entity for this tender. Deal has already taken place, however we will be able to take delivery only after competition of lockdown period. Please provide sufficient time i.e. atleast 90 days from removal of lockdown restrictions.</p> <p>Please also note that sellers are also facing lockdown due to COVID-19.</p>	Tender condition prevails
79	21		Bank Solvency Tenderer required to submit latest Bank Solvency Certificate from any Nationalised Bank/Scheduled Bank (except Co-operative Bank).	Banks are working with reduced staff and such services are not provided by them currently due to COVID -19 lock down. Therefore, please remove this requirement.	Latest bank solvency certificate is not required to be submitted.
80				<p>Lastly, we would also like to draw your kind attention to the fact that the whole world is going through a tough situation due to global pandemic i.e. COVID-19 and most of the countries are facing complete or partial lockdown due to the same. We have, previously vide our email, have requested to kindly extend the time lines as prescribed under this tender due to this lockdown and once again considering the further extension of the lockdown till 17.05.2020 (last date of submission is 16.05.2020), you are requested to extend the timelines enabling tug owners to submit their bid successfully.</p>	Not agreed. Tender condition prevails
81	3		Closing Date: 16.05.2020 at 11.00 hrs	Looking to the conditions and restrictions due to lockdown till 18th May, 2020 we hereby request you to kindly extend the closing date to end of May, 2020	Tender condition prevails
82	5		Bidder should have experience and successfully completed / completed portion of ongoing works, similar works i.e. owning/operating and/or manning Harbour tugs/Supply vessels /Anchor handling Tugs/Ocean going tugs during last seven years up to due date of submission of the tender as follows:	<p>Request to kindly include experience of owning, manning, operating and maintenance of other crafts such as Pilot Launches, Self Propelled Grab Dredgers and Self Propelled Trailing Suction Hopper Dredgers also so as to increase the competition.</p>	Tender condition prevails

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83	21	ITT 7 e)	Tenderer required to submit latest Bank Solvency Certificate from any Nationalised Bank/ Scheduled Bank (except Co-operative Bank) addressed to FA&CAO, Mormugao Port Trust, for an amount of not less than Rs. 2,11,81,600/- amounting to 40% of the estimated annual hire cost.	Kindly clarify in case of Joint Venture, the solvency certificate of lead member to be satisfy the solvency criteria or all the members have to collectively satisfy the criteria for solvency certificate.	Latest bank solvency certificate is not required to be submitted.
84	22	ITT 9	The Hire Agreement is to be signed within 15(Fifteen) days from the date of issue of Letter of Intent. The tenderer shall deliver the Tug within 60(Sixty) days from the date of issue of LOA.	We request to kindly extend the permissible time for delivery of the Tug to 120 days from the date of issue of LOA	Tender Condition Prevails
85	22	ITT 10	LIQUIDATED DAMAGES: The tug shall be delivered within 60 days from the date of issue of Letter of Acceptance in sea worthy and efficient condition and should be in possession of all necessary certificates. If the Contractor fails to deliver the tug in all respects within 60 days from the date of issue of Letter of Acceptance, liquidated damages at the rate of Rs. 1,00,000/- per day per tug or actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher will be levied on the Contractor for a further period of 30 days.	<u>We request to kindly amend the clause as:</u> LIQUIDATED DAMAGES: The tug shall be delivered within 60 days from the date of issue of Letter of Acceptance in sea worthy and efficient condition and should be in possession of all necessary certificates. If the Contractor fails to deliver the tug in all respects within <u>120 days</u> from the date of issue of Letter of Acceptance, liquidated damages at the rate of Rs. 1,00,000/- per day per tug or actual hiring cost per day per tug for deploying a tug at the risk and cost of contractor, whichever is higher will be levied on the Contractor for a further period of 30 days.	Refer Sr. No. 19
86	34	THIRD SCHEULE SECTION 8	SECTION 8: DATE OF COMMENCEMENT: The tug has to report at Mormugao Port within 60 (Sixty) days from the date of issue of LOA.	<u>We request to kindly amend the clause as:</u> SECTION 8: DATE OF COMMENCEMENT: The tug has to report at Mormugao Port within 120 days from the date of issue of LOA.	Tender condition prevails

Note : Due date and time for submission of bids remains unchanged.