

TENDER DOCUMENT

TENDER FOR FAIRWAY DEVELOPMENT FROM SONIYA VIHAR TO TRONICA CITY AND RECLAMATION OF LANDS AT SONIYA VIHAR, JAGATPUR AND TRONICA CITY USING DREDGED MATERIAL FOR WATER TAXI PROJECT ON YAMUNA RIVER, DELHI

TENDER NO. IWAI/NG/42-H/2016

October 2016

**Inland Waterways Authority of India
(Ministry of Shipping, Govt. of India)
A-13, Sector-1, Noida – 201 301 (UP)**

Tel (0120) 2527667, Fax (0120) 2544041 Web site: www.iwai.nic.in,
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NIT FOR PUBLICATION



INLAND WATERWAYS AUTHORITY OF INDIA,

A-13, Sector-1, NOIDA-201 301

Tender No

IWAI/NG/42-H/2016

Tender for Dredging in Yamuna River for Waterway development from Soniya Vihar to Tronic City and reclamation of lands at Soniya Vihar, Jagatpur, Tronica city using dredged material for Water taxi project on Yamuna River, Delhi

The Inland Waterways Authority of India (IWAI) invites 'Two cover bid system' from reputed contractors for Dredging in Yamuna River for Waterway development from Soniya Vihar to Tronic City and reclamation of lands at Soniya Vihar, Jagatpur, Tronica city using dredged material for Water taxi project on Yamuna River, Delhi. Interested parties engaged in relevant business are eligible to submit their proposal.

Tender document cost: 1,000/-. Date of downloading tenders is from 21.10.2016 to 15.11.2016. Last date of online submission of bids is up to 1500 hours on 18.11.2016. Date of online opening would be on 18.11.2016 at 1530 hours.

For further details including EMD and other terms & conditions, please refer to IWAI website i.e. www.iwai.nic.in. All those interested in obtaining the RFP shall download it from the website of IWAI, www.iwai.nic.in. Applicants are requested to submit their proposal furnishing the requisite details latest by 15:00 HRS on 18th of Nov. 2016 as per the procedure outlined in the RFP.

Hydrographic Chief

INDEX

| SL NO | DESCRIPTION | PAGE NO |
|--------------|---|------------|
| SECTION-I | Notice Inviting E-Tender (NIT) | 4 to 8 |
| Section-II | Instruction To Bidders (ITB) including Instruction to the Contractors / Bidders for the e-submission of the bids online through the Central Public Procurement Portal for E-procurement and Appendix To Bid | 9 to 20 |
| SECTION III | Integrity Agreement | 21 to 26 |
| SECTION IV | General Conditions of Contract | 27 to 78 |
| SECTION-V | Special Conditions of Contract | 79 to 87 |
| SECTION-VI | Technical Specifications | 88 to 92 |
| SECTION-VII | Bill of quantities | 93 to 95 |
| SECTION-VIII | Forms | 96 to 111 |
| SECTION-IX | Annexure | 112 to 120 |

(SECTION-I)
NOTICE INVITING E-TENDER (NIT)

INLAND WATERWAYS AUTHORITY OF INDIA

(Ministry of Shipping, Govt. of India)

A-13, Sector 1, Gautam Buddha Nagar, Noida 201 301

Tel (0120) 2527667, Fax (0120) 2544041

Web site: www.iwai.nic.in; E-mail: hc.iwai@nic.in, kaptaan_ps@yahoo.com

<https://eprocure.gov.in/eprocure/app>

NOTICE INVITING E-TENDER

The Inland Waterways Authority of India (IWAI) hereby invites online tenders/bids (Technical and Financial Bid) from experienced contractors for dredging in Yamuna river for waterway development from Soniya Vihar to Tronica city and reclamation of lands at Soniya Vihar, Jagatpur, Tronica city using dredged material. The location details are attached as Annexure – I. The Bids will be placed online at <https://eprocure.gov.in/eprocure/app>

| S.No. | Description | Estimated cost (Rs. in lakh) | Bid Security (EMD) (Rs. in lakh) | Time of completion |
|-------|---|------------------------------|----------------------------------|--------------------|
| 1 | Dredging in Yamuna river for waterway development from Soniya Vihar to Tronica City and reclamation of lands at Soniya Vihar, Jagatpur, and Tronica City using dredged material. | 185.00 | 4.00 | 06 (Six) months |
| 2 | Design ,supply and installation of navigational aids i.e day mark of FRP buoy of 0.5 meter dia and 1 meter height with anchor, sinker and required length of chain as per approved specification from reputed supplier at every 500 meter distance both side of the channel of 6.5 Km stretch to demark the dredged channel | 15.00 | | |
| | Total Estimate | 200.00 | | |

Note: (i) Pre and Post Dredging survey shall be carried out to determine the Dredging Quantity (ii) Service Tax will be reimbursed on production of proof of deposit only

TERMS & CONDITIONS

1. Interested bidders may download the bid document from IWAI's website <http://www.iwai.nic.in> and CPP Portal Website <https://eprocure.gov.in/eprocure/app> as per the schedule as given in Critical Date Sheet as under-

Critical dates:

| | |
|-----------------------------------|--|
| Publishing Date | 04.10.2016 |
| Document Download/Sale Start Date | 21.10.2016 |
| Document Download/Sale End Date | 15.11.2016 |
| Seek Clarification Start Date | 21.10.2016 |
| Seek Clarification End Date | 07.11.2016 |
| Pre Bid Meeting Date | 11.11.2016 (11:30 AM to 12:30 PM) |
| Bid Submission Start Date | 15.11.2016 |
| Bid Submission Closing Date | 18.11.2016 (3:00 PM) |
| Bid Opening Date | 18.11.2016 (3:30 PM) |

Applicant submitting the downloaded version would need to pay the cost of tender document/bid along with the application through RTGS for Rs 1000/- drawn in favor of "IWAI FUND" payable at NOIDA/Delhi.

- (i) Name of Bank Account: IWAI Fund
- ii) Bank Name and Address: Syndicate Bank, Transport Bhawan, New Delhi-110001
- iv) Bank Account number: **90622150000086**
- v) IFSC: SYNB0009062
- vi) MICR CODE-110025077

Tender document will be available on the two above website from 04.10.2016 to 31.10.2016 between 1000 hours to 1700 hours (IST) . A signed declaration stating that no alteration has been made in any form in the downloaded tender document/bid is to be enclosed with the tender by bidder for downloaded tenders. The amendment /clarification, if any, to the document will be available on the above website.

2. Tenderer shall agree to the terms & conditions of the tender and submit the tender online. Assigned copy on each page may be submitted offline for reference.

3. **Eligibility Criteria** : The eligibility criteria for the participation in the tender for above work shall be as follows:

- a) The Tenderer shall be a single entity. No consortium will be allowed.
- b) The firm should have successfully completed similar works during last 7 years ending last day of month previous to the one in which bids are invited either of the following:
 - a) Three similar completed works costing not less than the amount equal to 40% of estimated cost of schedules quoted
 - OR
 - b) Two similar completed works costing not less than the amount equal to 50% of estimated cost of schedules quoted
 - OR
 - c) One similar completed work costing not less than the amount equal to 80% of estimated cost of schedules quoted

d) **Similar Work:-**The similar nature of work may be considered as dredging operation in Inland Waterways, Ports/Harbour, river, lake, canal with the assistance of suitable dredgers.

e) The firm must have adequate number of dredgers, excavators & earth moving equipment etc suitable for execution of the project smoothly and efficiently either under own possession or on lease or hire basis so as to complete the work in all respect within the scheduled completion period.

f) A detail deployment schedule and method statement for the dredger alongwith capacity proposed to be dredged on weekly, monthly basis is required to be submitted.

g) An undertaking on the non-judicial stamp paper with regard to the mobilization & deployment of the dredgers and equipment mentioned in the deployment schedule within 15 days from the date of signing of the contract or one month from the date of issue of the work order whichever is earlier must be submitted. In the event of failure, the contract is liable for termination.

h) The details of each dredgers, equipment as the proof of adequate capacity available for the work which must include the type, size, make, capacity and date of procurement is required to be furnished alongwith the registration and survey certificate (if any) from the concerned organisation.

And

One completed work (either part of (i) or a separate one) costing not less than the amount equal to 80 Lakh rupees with some Central Government Department/ State Government Department/ Central Autonomous Body/ State Autonomous Body/ Central Public Sector Undertaking/ State Public Sector Undertaking/City Development Authority/ Municipal Corporation of City formed under any Act by Central/ State Government and published in Central/State Gazette during the last 5 years.

- c) The average annual turnover of the bidder should not be less than 200 lakhs Rupees during the last 3 preceding years. (Audited Balance sheets showing turnover, Profit & Loss account of the firm for the preceding 03 years (2015-16, 2014-15, 2013-14) should be submitted along with the tender document)
 - d) Solvency Certificate(s) from a Scheduled Bank(s) for an aggregate sum of not less than Rs. 80 lakhs (40%).
 - e) Documentary proof duly certified by a chartered accountant for annual turnover by the concerned bank should be enclosed with the tender.
 - f) The bidder should have a valid Service Tax Registration Certificate. (Proof of the same shall be submitted along with the tender document)
 - g) Bidders shall be registered with CPWD, State PWD, MES or Central Government undertakings.
4. Tender must be accompanied with scanned copy of all documentary evidence of credentials viz. similar works done, performance certificate, financial performance and all other documents as specified in the tender document.
5. Tenders must be accompanied by Earnest Money Deposit of Rs.4.0 lakhs in the form of RTGS from a Nationalized/Scheduled Bank payable at Noida or Delhi and drawn in favour of IWAI Fund. Details of the account are as follows
- (i) Name of Bank Account: IWAI Fund
 - ii) Bank Name and Address: Union Bank of India, Sector 15, Noida 201301
 - iii) Bank Account number: 513202050000007

iv) IFSC: UBIN0551325

V) MICR CODE- 110026055

6. Tenders must be delivered to IWAI at the address given above on or before 3.00 p.m. on 31.10.2016 late tenders will be rejected.
7. The cover I of the tender containing the prequalification documents will be opened on the same day at 3:30 p.m. If the IWAI office happened to be closed on the date of receipt of the tender as specified, the tender will be received and opened in the next working day at the same time and venue.

Hydrographic Chief
IWAI, Noida

Tender No: **IWAI/NG/42-H/2016**

Date : 04.10.2016

(SECTION-II)

**Instruction To Bidders (ITB) including
Instruction to the Contractors / Bidders for the e-submission of the bids online
through the Central Public Procurement Portal for E-procurement and Appendix
To Bid**

Section II

Instructions to Bidders (ITB)

Instructions to the Contractors/Bidders for the e-submission of the bids online through the Central Public Procurement Portal for eProcurement<https://eprocure.gov.in/eprocure/app>

- 1) Possession of valid Digital Signature Certificate (DSC) and enrolment/registration of the contractors/bidders on the e-procurement/e-tender portal is a prerequisite for e-tendering.
- 2) Bidder should do the enrolment in the e-Procurement site using the <https://eprocure.gov.in/eprocure/app> option available on the home page. Portal enrolment is generally free of charge. During enrolment/registration, the bidders should provide the correct/true information including valid email_id. All the correspondence shall be made directly with the contractors/bidders through email_id provided.
- 3) Bidder need to login to the site through their user ID/ password chosen during enrolment/registration.
- 4) Then the Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by SIFY/TCS/nCode/e-Mudra or any Certifying Authority recognized by CCA India on eToken/SmartCard, should be registered.
- 5) The DSC that is registered only, should be used by the bidder and should ensure safety of the same.
- 6) Contractor/Bidder may go through the tenders published on the site and download the required tender documents/schedules for the tenders he/she is interested.
- 7) After downloading / getting the tender document/schedules, the Bidder should go through them carefully and then submit the documents as asked.
- 8) If there are any clarifications, this may be obtained online thro' the tender site, or thro' the contact details. Bidder should take into account of the corrigendum published before submitting the bids online.
- 9) Bidder then logs in to the site through the secured log in by giving the user id/ password chosen during enrolment/registration and then by giving the password of the eToken/SmartCard to access DSC.
- 10) Bidder selects the tender which he/she is interested in by using the search option & then moves it to the 'my favourites' folder.
- 11) From the my favourites folder, he selects the tender to view all the details indicated.
- 12) It is construed that the bidder has read all the terms and conditions before submitting their offer. Bidder should go through the tender schedules carefully and upload the documents as asked, otherwise, the bid will be rejected.
- 13) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document/schedule and generally, they can be in PDF/xls/rar/jpg/ formats.
- 14) If there is more than one document, they can be clubbed together and can be provided in the requested format. Each document to be uploaded through online for the tenders should be less than 2 MB. If any document is more than 2MB, it can be reduced through zip/rar and the same can be uploaded, if permitted.
- 15) If there are any clarifications, this may be obtained through the site, or during the

pre-bid meeting if any. Bidder should take into account the corrigendum published from time to time before submitting the online bids.

- 16) The Bidders can update well in advance, the documents such as certificates, annual report details etc., under My Space option and these can be selected as per tender requirements and then send along with bid documents during bid submission. This will facilitate the bid submission process faster by reducing upload time of bids.
- 17) Bidder should submit the Tender Fee/ EMD as specified in the tender. Earnest money shall be accepted in the form of RTGS of a Scheduled Bank. Scanned copy of the instrument should be uploaded as part of the offer, if asked for.
- 18) While submitting the bids online, the bidder reads the terms & conditions and accepts the same to proceed further to submit the bid packets.
- 19) The bidder has to select the payment option as offline to pay the Tender FEE/ EMD as applicable and enter details of the instruments.
- 20) The details of the DD/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise submitted bid will not be acceptable.
- 21) The bidder has to digitally sign and upload the required bid documents one by one as indicated. Bidders to note that the very act of using DSC for downloading the bids and uploading their offers shall be deemed to be a confirmation that they have read all sections and pages of the bid document including General conditions of contract without any exception and have understood the entire document and are clear about the requirements of the tender requirements.
- 22) The bidder has to upload the relevant files required as indicated in the cover content. In case of any irrelevant files, the bid will be rejected.
- 23) If the price bid format is provided in a spread sheet file like BoQ_XXXX.xls, the rates offered should be entered in the allotted space only and uploaded after filling the relevant columns. The Price Bid/BOQ template must not be modified/replaced by the bidder, else the bid submitted is liable to be rejected for this tender.
- 24) The bidders are requested to submit the bids through online e-tendering system to the Tender Inviting Authority (TIA) well before the bid submission end date & time (as per Server System Clock). The TIA will not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the bidders at the eleventh hour.
- 25) After the bid submission, the acknowledgement number, given by the e-tendering system should be printed by the bidder and kept as a record of evidence for online submission of bid for the particular tender and will also act as an entry pass to participate in the bid opening date.
- 26) The bidder should ensure/see that the bid documents submitted should be free from virus and if the documents could not be opened, due to virus, during tender opening, the bid is likely/liable to be rejected.
- 27) The time settings fixed in the server side & displayed at the top of the tender site, will be valid for all actions of requesting, bid submission, bid opening etc., in the tender system. The bidders should follow this time during bid submission.
- 28) All the data being entered by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered will not be viewable by unauthorized persons during bid submission & not be viewable by any one until the

time of bid opening.

- 29) Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 30) The confidentiality of the bids is maintained since the secured Socket Layer 128 bit encryption technology is used. Data storage encryption of sensitive fields is done.
- 31) The bidder should logout of the tendering system using the normal logout option available at the top right hand corner and not by selecting the (X) exit option in the browser.
- 32) For any queries regarding e-tendering process, the bidders are requested to contact through the modes given below:

Hydrographic Chief

Inland Waterways Authority of India,

A-13, Sector-1, Noida – 201 301

Tel (0120) 2527667, Fax (0120) 2544041/ 2522969

Website: www.iwai.nic.in

E-mail: -hc.iwai@nic.in

Kaptan_ps@yahoo.com

A. General

1. Scope of Bid

- 1.1) The Owner (as defined in the Appendix to ITB) invites online bids for “Dredging in Yamuna river for waterway development from Soniya Vihar to Tronica City and reclamation of lands at Soniya Vihar, Jagatpur, and Tronica City using dredged material. (Mentioned work include design supply and installation of navigational aids i.e day mark of FRP buoy 0.5 mtr dia, and 1 mtr height with anchor, sinker and required length of chain as per approved specification at every 500 meter distance both side of channel of 6.5 Km stretch) ” as described in these documents and referred to as “the works”. The name of the work is provided in the Appendix to ITB. The bidder at their own can submit their bid towards the work.
- 1.2) The successful bidder will be expected to complete the works 06 (Six) months.
- 1.3) Throughout these bidding documents, the terms “bid” and “tender” and their derivatives (bidder/tenderer, bid/tender, bidding/tendering, etc.) are synonymous.

2. Source of funds

2.1 The expenditure on this project will be met by Inland Waterways Authority of India (IWAI).

3. Eligible Bidders

- 3.1. This Invitation for online Bids is open to all bidders engaged in civil constructions of with similar or higher capacity as already described in NIT.
- 3.2. Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices by the Central Government, the State Government or any public undertaking, autonomous body, authority by whatever name called under the Central or the State Government.

4. Qualification of the Bidder

- 4.1. This invitation for online bids is open to all contractors meeting the eligible qualifications as described in this document.
- 4.2. All bidders shall include the scanned copy of following information and documents with their bids online.
- (a) Copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder.
 - (b) Total monetary value of similar works performed for each of the last seven years.
 - (c) Experience certificate in works of a similar nature and size for each of the last seven years with satisfactory performance certificates from clients.
 - (d) Qualification and experience of key site management and technical personnel proposed for the contract.
 - (f) Reports on the financial standing of the Bidder, and a certificate from Chartered Accountant as a proof of turnover for the past five years.
 - (g) Evidence of adequacy of working capital for this contract [access to line(s) of credit and availability of other financial resources].
 - (h) Information regarding any litigation or arbitration during the last five years in which the Bidder is involved, the parties concerned, the disputed amount, and the matter;
 - (i) Details of the contracts if any having delay in completing the work more than one year over and above contractual delivery period. In the event of no case, similar

statement is to be submitted.

(j) Firm should have financial solvency of not less than **Rs. 80 lacs**

(k) Valid income tax clearance certificate from India builder/supplier.

5. One Bid per Bidder

5.1. Each Bidder shall submit only one online Bid for the work. A Bidder who submits more than one Bid will cause the proposals with the Bidder's participation to be disqualified.

6. Cost of Bidding

6.1. The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Owner will, in no case, be responsible or liable for those costs regardless of the conduct or outcome of the bidding process.

B. Bidding Documents

7. Content Of Bidding Documents

7.1. The Tender Documents contain:

- (a) Notice inviting tender
- (b) Instructions to Tenderers
- (c) Integrity agreement
- (d) General Conditions of Contract
- (e) Special Conditions of Contract
- (f) Technical specifications
- (g) Forms of Bid

7.2. The Tenderer is expected to examine all instructions, forms, terms and conditions in the Tender Documents. Failure to furnish all information required by the Tender Documents or submission of a Tender that is not substantially responsive to the Tender Documents in all respect, will result in the rejection of their Tender.

8. Clarification of Bidding Documents

8.1. A prospective Bidder requiring any clarification of the bidding documents may notify the owner in writing or by facsimile at the owner's address indicated in the Notice Inviting Tenders. The Owner will respond to any request for clarification received earlier than 10 days prior to the deadline for submission of bids. Copies of the Owner's response will be forwarded to all purchasers of the bidding documents, including a description of the inquiry, but without identifying its source.

8.2. If a pre-bid meeting is to be held, the bidder or his official representative is invited to attend it. Its date, time and address are given in the Appendix to ITB.

9. Amendment Of Tender Documents

9.1. At any time prior to the deadline for submission of Tenders, the client may, for any reason, modify the Tender Documents by an amendment.

9.2. The amendment will be notified in writing by e-mail or fax to all prospective Tenderers

who have received the Tender Documents and will be binding on them. The amendment shall be duly signed by the authorized signatory and enclosed in Cover I – Pre-qualification and Technical Bid.

- 9.3. In order to provide a reasonable time for the Tenderer, to take the amendment into account and for preparing their Tenders, the client may, at their discretion, extend the deadline for the submission of Tenders.

C. Preparation of Tenders

10. Language Of Tender

- 10.1. The Tender and all correspondence and documents relating to the Tender shall be in the English language only.

11. Documents Comprising The bid

- 7.1. The Tender prepared by the Tenderer shall comprise the following components:

- (a) For bidding documents downloaded from the website <https://eprocure.gov.in/eprocure/app>, A scanned copy of the Earnest Money in RTGS from Bank must be uploaded. The original of the Earnest money deposit to be deposited in the office before the bid submission closing date.
- (b) Documentary evidence to prove the pre-qualification criteria.
- (c) The Technical Tender comprising of preliminary drawing of the Terminal building and detailed specification of all components including material of construction and its make in accordance with the requirements specified.
- (d) A scanned affidavit affirming that information he has furnished in the bidding document is correct to the best of his knowledge and belief must be uploaded. The original affidavit is to be deposited in the office before the bid submission closing date.
- (e) The scanned copy of the Program and Method Statement/Work Plan and the Activity Schedule for the entire work.

12. Price Tender

- 12.1. The Client reserves the right to award the contract in full or, split and award the various parts to the different Tenderers without assigning any reason thereof.
- 12.2. The Tenderer shall complete the Form for Price bid furnished in the Tender Documents. Tenderers should prepare their bid strictly according to this format, filling in all the blank spaces.
- 12.3. Prices quoted by the Tenderer shall be fixed and firm during the Tenderer's performance of the Contract and shall not be subject to any escalation or variation on any account. A Tender submitted with an adjustable Price quotation and Tender with conditions is liable for rejection. The decision of the Client will be final in this regard.
- 12.4. The intending Tenderers shall be deemed to have studied the Tender papers, studied the site conditions, availability of labour, transportation problems, unloading procedures, if any, and the locality of the work, facilities available and has taken into

account all aspects affecting the execution of contract, before submitting the Tender.

13. Tender Currencies

- 13.1. For all goods and services covered in this Tender Document, Prices shall be quoted in Indian Rupees only.

14. Bid Validity

- 14.1.** Bids shall remain valid for a period of 120 days after the deadline date for bid submission. The Owner as non-responsive shall reject a bid valid for a shorter period.
- 14.2.** In exceptional circumstances, prior to expiry of the original time limit, the Owner may request that the bidders may extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be required or permitted to modify his bid, but will be required to extend the validity of his bid security for a period of the extension, and in compliance with Clause 15 in all respects.

15. Earnest Money Deposit (EMD)

- 15.1.** The Tenderer shall furnish as part of their Tender, EMD as specified in the Tender Notice.
- 15.2.** The EMD is required to protect the Client against the risk of Tenderer's conduct, which would warrant the EMD's forfeiture, pursuant to clause mentioned below.
- 15.3.** The EMD shall be denominated in Indian Rupees only.
- 15.4.** Any Tender not accompanied by EMD will be rejected by the client as non-responsive.
- 15.5.** No interest shall be paid by the client on the EMD deposited by the Tenderer.
- 15.6.** Unsuccessful Tenderer's EMD will be returned as promptly as possible, but not later than 30 days after the expiration of the period of Tender validity prescribed by the client.
- 15.7.** The successful Tenderer's EMD will be discharged upon the Tenderer executing the Contract, and furnishing the Security Deposit.
- 15.8.** The EMD may be forfeited:
- (a) If a Tenderer withdraws their Tender during the period of validity.
 - (b) In the case of the successful Tenderer fails:
 - i) to sign the Contract agreement or
 - ii) to furnish Performance security as mentioned in the Tender.

16. Delete

17. Format And Signing Of Tender

- 17.1. The Bidder shall submit online bid comprising of the documents as described in Clause 11 and other documents as specified in the tender.
- 17.2. The Bid shall be signed by a person or persons duly authorized to sign on behalf of the Bidder. All pages of the Bid shall be signed by the person or persons signing the Bid.

- 17.3. The Bid shall contain no overwriting, alterations or additions, except those to comply with instructions issued by the Owner, or as necessary to correct errors made by the Bidder, in which case such corrections shall be made by scoring out the cancelled portion, writing the correction and signing and dating it along with the stamp by the person or persons signing the Bid.

D. Submission of bids

18. Online submission of Bids

- 18.1. The Bidder shall submit online bids.

19. Deadline For Submission Of Tenders

- 19.1. Complete online Bids (including Technical and Financial) must be received by the bid submission closing date and time.
- 19.2. The Owner may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 9, in which case all rights and obligations of the Owner and the bidders previously subject to the original deadline will then be subject to the new deadline.

20. Modification and Withdrawal of Bids

- 20.1. Bidders may modify or withdraw their bids online before the deadline.
- 20.2. Withdrawal or modification of a Bid between the deadline for submission of bids and the expiration of the original period of bid validity specified in Clause 14.1 above or as extended pursuant to Clause 14.2 shall result in the forfeiture of the Bid security pursuant to Clause 15.

E. Bid Opening And Evaluation

21. Bid Opening

- 21.1. Online Bid opening shall be carried out in two stages. Firstly, 'Technical Bid' of all the online bids received shall be opened on the date and time mentioned in the Appendix to ITB. 'Financial Bid' of those bidders whose technical bid has been determined to be responsive and on evaluation fulfils the criteria laid down in Clause 25.2 shall be opened on a subsequent date, which will be notified to such bidders.
- 21.2. The Owner will open the online "Technical Bid" of all the bids received , including modifications of Technical Bid made pursuant to Clause 20 in the presence of the bidders/bidders' representatives who choose to attend at the time, date and place specified in the Appendix to ITB. In the event of the specified date for the submission of bids being declared a holiday for the Owner, the Bids will be opened at the appointed time and location on the next working day.
- 21.3. Bidder's names, the presence of bid security and such other details, as the Owner may consider appropriate will be announced by the Owner after the opening.
- 21.4. In all other cases, the amount of Earnest Money, forms and validity shall be announced. Thereafter, the Owner at the opening as the Owner may consider appropriate, will announce the bidders' names and such other details.
- 21.5. After the opening of the technical bids their evaluation will be taken up with respect to bid security, qualification information and other information furnished in Part I of the bid

in pursuant to clause 11.1, thereafter on fulfilling the criteria laid down in Clause 25.2, a list will be drawn up of the responsive bids whose financial bids are eligible for consideration.

- 21.6. The Owner shall inform the bidders, whose technical bids are found responsive, of the date, time and place of opening of the financial bids. The bidders so informed, or their representative, may attend the meeting of online opening of financial bids.
- 21.7. At the time of the online opening of the 'Financial Bid', the names of the bidders whose bids were found responsive and the Bid prices, the total amount of each bid, and such other details as the Owner may consider appropriate will be announced by the Owner at the time of bid opening.

22. Process to be Confidential

- 22.1.** Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any attempt by a Bidder to influence the Owner's processing of bids or award decisions may result in the rejection of his Bid

23. Clarification of Bids and Contacting the Owner

- 23.1.** No Tenderer shall contact the Client on any matter relating to their Tender, from the time of the Tender opening to the time the Contract is awarded.
- 23.2.** Any effort by a Tenderer to influence the client in the Tender evaluation, Tender comparison or Contract award decisions may result in the rejection of their Tender.

24. Examination of Bids and Determination of Responsiveness

- 24.1. During the detailed evaluation of "Technical Bids", the Owner will first determine whether each Bid
 - (a) meets the eligibility criteria defined in Clauses 3 and 4;
 - (b) has been properly signed;
 - (c) is accompanied by the required securities; and
 - (d) is responsive to the requirements of the bidding documents.
- 24.2. After the above process is completed the technical specification/offer of the responsive bidders will be examined with respect to technical specifications provided in the tender document, clarifications, if any, at this stage in respect of the technical parameters offered by the bidder will be sought from the bidders. Thereafter, the bids, which conform, to the terms, conditions, and specifications of the bidding documents, without material deviation or reservation will be considered as responsive for evaluation.

25. Evaluation of Bids

- 25.1. Selection of the bidder will be based on technical and financial evaluation.
- 25.2. Verification of the facts furnished by the bidders may be made by the owner by visiting the establishment/Dredger of the bidders prior to finalizing the technical evaluation
- 25.3. If the bidder does not fulfill the above criteria his bid shall be technically disqualified and his financial bid shall not be opened.
- 25.4. The evaluation of the financial bid will be based on the lowest financial offer received for the work.

F. Award of Contract

26. Award Criteria

26.1. Subject to Clause 28, the Owner will award the Contract to the Bidder after evaluation as per Clause 25.

27. Owner's Right to accept any Bid and to reject any or all Bids and Split the work or Increase and Decrease work.

27.1. Notwithstanding Clause 26, the Owner reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Owner's action. Owner also the reserve the right to split the work to one or more parties depending on capability of the yard and increase/decrease the work requirement.

28. Notification of Award and Signing of Agreement.

- 28.1. The bidder whose Bid has been accepted will be notified of the award by the Owner prior to expiration of the Bid validity period by confirmed by registered letter. This letter, "Letter of Acceptance", will state the sum that the Owner will pay to the Contractor in consideration of the execution and completion of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 28.2. The notification of award will constitute the formation of the Contract, subject only to the furnishing of a performance security in accordance with the provisions of clause mentioned.
- 28.3. The Agreement will incorporate all agreements between the Owner and the successful Bidder. It will be signed by the Owner and the successful Bidder after the performance security is furnished and within 15 days of issuance of Letter of Acceptance.
- 28.4. Upon the furnishing by the successful Bidder of the Performance Security, the other Bidders will be informed that their Bids have been unsuccessful.

29. Factors Affecting the Award of the contract

- 29.1. The bidder should have its own contract support facilities. The support facilities should be fully owned and managed by the bidder.
- 29.2. Conformity with the request for bid/tender required and conditions.
- 29.3. The assessment of the capability of the bidder to meet the terms and conditions.
- 29.4. The bidder must have executed similar orders, for which the bidder is quoting as indicated in clause 1 of ITB for Government/ semi Government/Autonomous Organization's/reputed Private organizations.

30. Performance Security

- 30.1. Within 10 (ten) days after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Owner a Performance Security of 5% (Five) percent of the Contract Price, for the period of 28 days after the expiry of defect liability period of 12 months.
- 30.2. The performance security shall be in the form of a Bank Guarantee in the name of the Owner or RTGS in favour of IWAI fund from a bank as applicable in case of earnest money/bid security.
- 30.3. Failure of the successful bidder to comply with the requirement of sub-clause 30.1 shall constitute sufficient ground for cancellation of the award and forfeiture of the bid

security.

31. Advances

- 31.1. On award of work and execution of agreement and if requested a mobilization advance of 10% of contract price will be given at the simple rate of interest of 12% per annum, against furnishing of non-revocable bank guarantee. The mobilization advance will be recovered in four equal installments starting from the first running bill.

32. Corrupt or Fraudulent Practices

- 32.1. The Owner will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question and will declare the firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract with Inland Waterways Authority of India and any other agencies, if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for the contractor, or in execution.
- 32.2. The Owner requires the bidders/Contractors to strictly observe the laws against fraud and corruption enforced in India, namely, Prevention of Corruption Act, 1988.

(SECTION III)
INTEGRITY AGREEMENT

To be signed by the bidders' and same signatory competent/authorized to sign the relevant contract on behalf of IWAI.

(TO BE SUBMITTED ON Rs.100/- NON JUDICIAL STAMP PAPER)

INTEGRITY AGREEMENT

This Integrity Agreement is made at on thisday of 20.....

BETWEEN

Chairman, Inland Waterways Authority of India represented through Chief Engineer (P&M), Inland Waterways Authority of India, A - 13, Sec. – 1, Noida.

IWAI, (Hereinafter referred as the 'Principal/Owner', which expression shall unless repugnant to the meaning or context hereof include its successors and permitted assigns)

AND

.....
(Name and Address of the Individual/firm/Company)

through(Hereinafter referred to as the

(Details of duly authorized signatory)

“Bidder/Contractor” and which expression shall unless repugnant to the meaning or context hereof include its successors and permitted assigns)

Preamble

WHEREAS the Principal / Owner has floated the Tender (NIT No.: IWAI/ NW-4/8(Dredging)/2015-16) (hereinafter referred to as “Tender/Bid”) and intends to award, under laid down organizational procedure, contract dredging in Krishna river system of NW-4.

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

AND WHEREAS to meet the purpose aforesaid both the parties have agreed to enter into this Integrity Agreement (hereinafter referred to as “Integrity Pact” or “Pact”), the terms and conditions of which shall also be read as integral part and parcel of the Tender/Bid documents and Contract between the parties.

NOW, THEREFORE, in consideration of mutual covenants contained in this Pact, the parties hereby agree as follows and this Pact witnesses as under:

Article 1: Commitment of the Principal/Owner

- 1) The Principal/Owner commits itself to take all measures necessary to prevent corruption and to observe the following principles:
 - (a) No employee of the Principal/Owner, personally or through any of his/her family members, will in connection with the Tender, or the execution of the Contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - (b) The Principal/Owner will, during the Tender process, treat all Bidder(s) with equity and reason. The Principal/Owner will, in particular, before and during the Tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the Tender process or the Contract execution.

- (c) The Principal/Owner shall endeavour to exclude from the Tender process any person, whose conduct in the past has been of biased nature.
- 2) If the Principal/Owner obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal code (IPC)/Prevention of Corruption Act, 1988 (PC Act) or is in violation of the principles herein mentioned or if there be a substantive suspicion in this regard, the Principal/Owner will inform the Chief Vigilance Officer and in addition can also initiate disciplinary actions as per its internal laid down policies and procedures.

Article 2: Commitment of the Bidder(s)/Contractor(s)

1. It is required that each Bidder/Contractor (including their respective officers, employees and agents) adhere to the highest ethical standards, and report to the IWAI all suspected acts of fraud or corruption or Coercion or Collusion of which it has knowledge or becomes aware, during the tendering process and throughout the negotiation or award of a contract.
2. The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the Tender process and during the Contract execution:
 - a) The Bidder(s)/Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal/Owner's employees involved in the tender process or execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the Tender process or during the execution of the contract.
 - b) The Bidder(s)/Contractor(s) will not enter with other Bidder(s) into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to cartelize in the bidding process.
 - c) The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act. Further the Bidder(s)/Contract(s) will not use improperly, (for the purpose of competition or personal gain), or pass on to others, any information or documents provided by the Principal/Owner as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d) The Bidder(s)/Contractor(s) of foreign origin shall disclose the names and addresses of agents/representatives in India, if any. Similarly Bidder(s)/Contractor(s) of Indian Nationality shall disclose names and addresses of foreign agents/representatives, if any. Either the Indian agent on behalf of the foreign principal or the foreign principal directly could bid in a tender but not both. Further, in cases where an agent participate in a tender on behalf of one manufacturer, he shall not be allowed to quote on behalf of another manufacturer along with the first manufacturer in a subsequent/parallel tender for the same item.
 - e) The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.
3. The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

4. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm indulge in fraudulent practice means a wilful misrepresentation or omission of facts or submission of fake/forged documents in order to induce public official to act in reliance thereof, with the purpose of obtaining unjust advantage by or causing damage to justified interest of others and/or to influence the procurement process to the detriment of the Government interests.
5. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm use Coercive Practices (means the act of obtaining something, compelling an action or influencing a decision through intimidation, threat or the use of force directly or indirectly, where potential or actual injury may befall upon a person, his/ her reputation or property to influence their participation in the tendering process).

Article 3: Consequences of Breach

Without prejudice to any rights that may be available to the Principal/Owner under law or the Contract or its established policies and laid down procedures, the Principal/Owner shall have the following rights in case of breach of this Integrity Pact by the Bidder(s)/Contractor(s) and the bidder/contractor accepts and undertakes to respect and uphold the Principal/Owner's absolute right:

1. If the Bidder(s)/Contractor(s), either before award or during execution of Contract has committed a transgression through a violation of Article 2 above or in any other form, such as to put his reliability or credibility in question, the Principal/Owner after giving 14 days' notice to the contractor shall have powers to disqualify the Bidder(s)/Contractor(s) from the tender process or terminate/determine the Contract, if already executed or exclude the Bidder/Contractor from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of transgression and determined by the Principal/Owner. Such exclusion may be forever or for a limited period as decided by the Principal/Owner.
2. **Forfeiture of EMD/Performance Guarantee/Security Deposit:** If the Principal/Owner has disqualified the Bidder(s) from the tender process prior to the award of the contract or terminated/determined the contract or has accrued the right to terminate/determine the contract according to Article 3(1), the Principal/Owner apart from exercising any legal rights that may have accrued to the Principal/Owner, may in its considered opinion forfeit the entire amount of Earnest Money Deposit, Performance Guarantee and Security Deposit of the Bidder/Contractor.
3. **Criminal Liability:** If the Principal/Owner obtains knowledge of conduct of a bidder or Contractor, or of an employee or a representative or an associate of a bidder or Contractor which constitutes corruption within the meaning of IPC Act, or if the Principal/Owner has substantive suspicion in this regard, the Principal/Owner will inform the same to law enforcing agencies for further investigation.

Article 4: Previous Transgression

- 1) The Bidder declares that no previous transgressions occurred in the last 5 years with any other Company in any country confirming to the anticorruption approach or with Central Government or State Government or any other Central/State Public Sector Enterprises in India that could justify his exclusion from the Tender process.
- 2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the Tender process or action can be taken for banning of business dealings/ holiday listing of the Bidder/Contractor as deemed fit by the Principal/ Owner.

- 3) If the Bidder/Contractor can prove that he has resorted / recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal/Owner may, at its own discretion, revoke the exclusion prematurely.

Article 5: Equal Treatment of all Bidders/Contractors/Subcontractors

- 1) The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact. The Bidder/Contractor shall be responsible for any violation(s) of the principles laid down in this agreement/Pact by any of its Subcontractors/sub-vendors.
- 2) The Principal/Owner will enter into Pacts on identical terms as this one with all Bidders and Contractors.
- 3) The Principal/Owner will disqualify Bidders, who do not submit, the duly signed Pact between the Principal/Owner and the bidder, along with the Tender or violate its provisions at any stage of the Tender process, from the Tender process.

Article 6: Duration of the Pact

This Pact begins when both the parties have legally signed it. It expires for the Contractor/Vendor 12 months after the completion of work under the contract or till the continuation of defect liability period, whichever is more and for all other bidders, till the Contract has been awarded.

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

Article 7: Other Provisions

- 1) This Pact is subject to Indian Law, place of performance and jurisdiction is the Headquarters of the Division of the Principal/Owner, who has floated the Tender.
- 2) Changes and supplements need to be made in writing. Side agreements have not been made.
- 3) If the Contractor is a partnership or a consortium, this Pact must be signed by all the partners or by one or more partner holding power of attorney signed by all partners and consortium members. In case of a Company, the Pact must be signed by a representative duly authorized by board resolution.
- 4) Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 5) It is agreed term and condition that any dispute or difference arising between the parties with regard to the terms of this Integrity Agreement / Pact, any action taken by the Owner/Principal in accordance with this Integrity Agreement/ Pact or interpretation thereof shall not be subject to arbitration.

Article 8: LEGAL AND PRIOR RIGHTS

All rights and remedies of the parties hereto shall be in addition to all the other legal rights and remedies belonging to such parties under the Contract and/or law and the same shall be deemed to be cumulative and not alternative to such legal rights and remedies aforesaid. For the sake of brevity,

both the Parties agree that this Integrity Pact will have precedence over the Tender/Contact documents with regard any of the provisions covered under this Integrity Pact.

IN WITNESS WHEREOF the parties have signed and executed this Integrity Pact at the place and date first above mentioned in the presence of following witnesses:

.....
(For and on behalf of Principal/Owner)

.....
(For and on behalf of Bidder/Contractor)

WITNESSES:

1.
(signature, name and address)

2.
(signature, name and address)

Place:

Date :

SECTION IV

GENERAL CONDITIONS OF CONTRACT

SCOPE OF CONTRACT

This Contract pertains to dredging in Yamuna River for Waterway development from Soniya Vihar to Tronica city and reclamation of lands at Soniya Vihar, Jagatpur, Tronica city using dredged material.

GENERAL PROVISIONS

1.1 Definitions

| | | |
|---------------|--|---|
| 1.1.1 | Employer | Employer means the Chairman, Inland Waterways Authority of India and his successors. |
| 1.1.2 | Authority/ IWAI/Department/ Owner/Client | “Authority/IWAI/Department/Owner/Client” shall mean the Inland Waterways Authority of India, which invites tenders on behalf of the Chairman, IWAI and includes therein-legal representatives, successors and assigns. |
| 1.1.3 | Chairman | Chairman means Chairman of Inland Waterways Authority of India. |
| 1.1.4 | Hydrographic Chief | Hydrographic Chief means the Hydrographic Chief of the Authority. |
| 1.1.5 | Classification Society | A classification society is a non-governmental organization that establishes and maintains technical standards for the construction and operation of ships, boats, offshore structures, etc like Indian Register of Shipping(IRS) |
| 1.1.6 | Director | Director means the Director of the Authority, as the case may be. |
| 1.1.7 | Deputy Director | Deputy Director means the Deputy Director of the Authority, as the case may be. |
| 1.1.8 | Contractor | Contractor means the successful Bidder who is awarded the contract to perform the work covered under this tender document and shall be deemed to include the Contractor’s successors, executors, representatives approved by the Engineer-in-charge. |
| 1.1.9 | Contractor's Representative | "Contractor's Representative" means the person named by the Contractor in the Contract or appointed from time to time by the Contractor, who acts on behalf of the Contractor. |
| 1.1.10 | Employer's Personnel | "Employer's Personnel" means the Engineer, the assistants and all other staff, labour and other employees of the Engineer and of the Employer; and any other personnel notified to the Contractor, by the Employer or the Engineer, as Employer's Personnel. |
| 1.1.11 | Contractor's Personnel | "Contractor's Personnel" means the Contractor's Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the works. |
| 1.1.12 | Engineer-In-Charge | Engineer-In-Charge (EIC) or Engineer means the Employers personnel authorized to direct, supervise and be in-charge of the |

| | | |
|---------------|---|---|
| | | works on behalf of the Employer. |
| 1.1.13 | “Subcontractor” | “Subcontractor” means any person named in the Contract as a Subcontractor for a part of the Works or any person to whom a part of the Works has been subcontracted by the Contractor with the consent of the EIC and the legal successors in title to such person, but not any assignee of any such person. |
| 1.1.14 | Engineer-in-charge representative/assistant | Engineer-in-charge representative/assistant shall mean any officer of the Authority nominated by the Engineer-in-charge for day to day supervision, checking, taking measurement, checking bills, ensuring quality control, inspecting works and other related works for completion of the project. |
| 1.1.15 | "Contract" | "Contract" means the Contract Agreement, the Letter of Award, the Form of Tender, the Conditions (GCC & SCC), the ToR, the Specifications, the Drawings, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Award. |
| 1.1.16 | “Specification” | “Specification” means the technical specifications and special conditions of the Works included in the Contract and any modification thereof or addition thereto made or submitted by the Contractor and approved by the Engineer. |
| 1.1.17 | Party | Party means either the employer or the contractor as the case may be and “parties” means both of them. |
| 1.1.18 | Commencement Date | "Commencement Date" means the date notified under clause 8.1. |
| 1.1.19 | Time for Completion | "Time for Completion" means the time for completing the execution of and passing the Tests on Completion of the Works or any Section or part thereof as stated in the Contract (or as extended under Clause 8.6) calculated from the Commencement Date. |
| 1.1.20 | Day | "Day" means a calendar day and "Year" means 365 days. |
| 1.1.21 | GCC | “GCC” means the General Conditions of Contract. |
| 1.1.22 | SCC | “SCC” means the Special Conditions of Contract. |
| 1.1.23 | Work Order | “Work Order” means a letter from the Authority conveying the acceptance of the tender/offer subject to such reservations as may have been stated therein. |
| 1.1.24 | Letter of Award | “Letter of Award” means the formal letter issued by the employer to successful bidder to notify award of contract and shall specify including other terms and conditions, total contract price in consideration of execution & completion of works and the remedying of any defect therein by the contractor in accordance with the terms and conditions of the contract. |
| 1.1.25 | Bill of Quantities | “Bill of Quantities” means the priced and completed bill of quantities forming part of the Tender. |
| 1.1.26 | Tests on Completion | “Tests on Completion” means the tests specified in the Contract or otherwise agreed by the Engineer and the Contractor which are to be made by the Contractor before the Works or any Section or part thereof are taken over by the Employer. |
| 1.1.27 | Taking Over Certificate | "Taking-Over Certificate" means a certificate issued on total completion of work. |

| | | |
|---------------|---------------------------|--|
| 1.1.28 | Contract Price | "Contract Price" means the price as specified in the letter of award subject to additions and adjustments thereto or deductions there from as may be made pursuant to the contract. |
| 1.1.29 | Cost | "Cost" means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit. |
| 1.1.30 | Accepted contract Amount | "Accepted contract Amount" means the amount accepted in the Letter of Award for the execution and completion of the Works including remedying of any defects. |
| 1.1.31 | Final Payment Certificate | "Final Payment Certificate" means the payment certificate issued under Sub-Clause 15.10 |
| 1.1.32 | Goods | "Goods" means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate. |
| 1.1.33 | Contractor's Equipment | "Contractor's Equipment" means all apparatus, machinery, vehicles and other things required for the execution and completion of the works and the remedying of any defects However, Contractor's Equipment excludes Temporary Works, Employer's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works. |
| 1.1.34 | Site | "Site" means the places where the Permanent Works are to be executed and to which Plant and materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site. |
| 1.1.35 | Permanent Works | "Permanent Works" means the permanent works to be executed by the Contractor under the Contract. |
| 1.1.36 | Temporary Works | "Temporary Works" means all temporary works of every kind (other than contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects. |
| 1.1.37 | Applicable Law | "Applicable Law" means the laws and any other instruments having the force of law in India for the time being. |
| 1.1.38 | Approval | Approval means consent by the employer in writing |

1.2 Interpretations

- 1.2.1 Where the contract so requires, words imparting the singular only shall also include the plural and vice versa. Any reference to masculine gender shall whenever required include feminine gender and vice versa.
- 1.2.2 Heading and marginal notes in these General Conditions shall not be deemed to form part thereof or be taken into consideration in the interpretation of construction thereof of the contract.
- 1.2.3 Wherever in the Contract provision is made for the giving or issuing of any notice, consent, approval, certificate or determination by any person, unless otherwise specified such notice, consent, approval, certificate or determination shall be in writing and the words "notify", "certify" or "determine" shall be construed accordingly. Any such consent, approval, certificate or determination shall not unreasonably be withheld or delayed.

1.3 Law and Language

The Contract shall be governed by the law of the country (Indian Law).

The language for communications shall be English as stated in SCC.

1.4 Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a) The contract Agreement (if completed),
- b) The Letter of Award/ Firm work order
- c) Special conditions of contract
- d) The priced bill of Quantities
- e) General conditions of contract
- f) The Drawings and Annexures.
- g) The Technical Specification
- h) Post bid correspondences and any other document forming part of contract.

If any ambiguity or discrepancy is found in the documents, the EMPLOYER /

ENGINEER shall be the sole authority to issue any necessary clarification or instruction in this regard.

1.5 Contract Agreement

The Parties shall enter into a Contract Agreement within 28 days after the Contractor receives the Letter of Award, unless they agree otherwise. The Contract Agreement shall be in the format annexed to the bid. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Bidder.

1.6 Assignment/sub-contracting

The Contractor shall not assign the whole or any part of the work to any other Party/Firm/Individual without prior written consent of the Employer.

1.7 Employer's Use of Contractor's Documents

- a) The original Specification and Drawings shall be in the custody and care of the Employer. Unless otherwise stated in the Contract, four copies of the Contract and of each subsequent Drawing shall be supplied to the Contractor, who may make or request further copies at the cost of the Contractor. Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the EMPLOYER/ENGINEER six copies of each of the Contractor's Documents.
- b) The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times. If a Party becomes aware of an error or defect of a technical nature in a document, which was

prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.8 Contractor's use of Employer's Documents

As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

1.9 Disclosure of Confidential Details

The Contractor shall disclose all such confidential and other information as EMPLOYER may reasonably require in order to verify the Contractor's compliance With the Contract.

1.10 Compliance with Laws

The Contractor shall, in performing the Contract, comply with applicable Govt & Statutory Laws.

Unless otherwise:

- a) the Employer shall have obtained (or shall obtain) the planning, zoning or similar permission for the Permanent works, and any other permissions described in the Specification as having been (or being) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licences and approvals for his equipment and manpower as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.

1.11 Deleted

1.12 Contract Details to be Confidential

The Contractor shall treat the details of the contract as private and confidential, except to the extent necessary to carry out obligations under it or to comply with applicable laws. The Contractor shall not publish, permit to be published or disclose any particulars of the works in any trade or technical paper of elsewhere without written approval of the Employer.

1) Employer

2.1 Employer's responsibility

Employer will provide all necessary help to facilitate the dredging work to the contractor. The contractor shall carry out work on the Site with his own workmen he shall, in respect of such work:

- (a) have full regard to the safety of all persons entitled to be upon the Site, and
- (b) keep the Site in an orderly state appropriate to the avoidance of danger to such persons.

Employer shall employ other contractors on the Site he shall require them to have the same regard for safety and avoidance of danger.

Force majeure

The Employer's risks are, in so far as they directly affect the execution of the Works in the country where the permanent works are to be executed:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, revolution, insurrection, or military or usurped power, or civil war,
- (c) ionising radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
- (d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- (e) riot, commotion or disorder, unless solely restricted to employees of the Contractor or of his Subcontractors and arising from the conduct of the Works,
- (f) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract,
- (g) loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible, and
- (h) any operation of the forces of nature (insofar as it occurs on the Site) that an experienced contractor:
 - (i) could not have reasonably foreseen, or
 - (ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures:
 - (a) prevent loss or damage to physical property from occurring by taking appropriate measures, or
 - (b) insure against such loss or damage.

2.2 Right of Access to the Site

The Employer shall provide all help to the Contractor right of access to and possession of, all parts of the Site within the time (or times) stated in the SCC. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner stated in the Specification. However, the Employer may withhold any such right or possession until the Performance Security has been received

If no such time is stated in the SCC, the Employer shall give the Contractor right of access to, and possession of, the Site within such times as may be required to enable the Contractor to proceed in accordance with the programme submitted. The same shall be handed over to the employer

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the EMPLOYER/ ENGINEER and shall be entitled to

- a. an extension of time for any such delay, if completion is or will be delayed

- b. No payment will be provided to the contractor on account of any cost escalation

After receiving this notice, the EMPLOYER/ENGINEER shall proceed to agree or determine these matters.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time.

2.3 Permits, Licenses or Approvals

The Employer shall (where he is in a position to do so) provide reasonable assistance to facilitate the Contractor at the request of the Contractor but without holding any liability to do so towards the contractor:

- a. by obtaining copies of the Laws of the Country which are relevant to the Contract but are not readily available, and
- b. for the Contractor's applications for any permits, Licences or approvals required by the Laws of the Country:
- c. for the delivery of Goods, including clearance through customs, and
- d. for the export of Contractors Equipment when it is removed from the Site.

All cost related to obtaining of such permits, licenses and approvals shall be borne by the contractor.

2.4 Employer's Claims

If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, the Employer shall give notice and particulars to the Contractor. However, notice is not required for payments due. The notice shall be given as soon as practicable after the Employer became aware of the event or circumstances giving rise to the claim.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. Employer shall then proceed in accordance with the amount (if any) which the Employer is entitled to be paid by the Contractor. This amount may be included as a deduction in the Contract Price and Payment Certificates. The Employer shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor.

3 Engineer

3.1 Engineer's Duties and Authority

The Employer shall appoint the Engineer-in charge who shall carry out duties assigned to him in the Contract. The Engineer's staff shall include suitably qualified engineers and other professionals who are competent to carry out his duties. The Engineer shall have no authority to amend the Contract. The Engineer shall have the following roles and responsibilities.

3.1.1 The Engineer shall carry out the duties specified in the Contract.

3.1.2 The Engineer may exercise the authority specified in or necessarily to be implied from the Contract. However, he should obtain the specific approval of the Employer before exercising any such authority; particulars of such requirements are as follows :-

3.1.2.1 consenting to the sub-contracting of any part of the Works under Clause 5;

- 3.1.2.2 certifying additional cost determined under Clause 4.7;
- 3.1.2.3 determining an extension of time under sub clause 8.6, 8.7 and 8.8 of Clause 8;
- 3.1.2.4 issuing a variation under sub clause 13.1 and 13.2 of clause 13, except:
 - (i) in an emergency situation, as reasonably determined by the Engineer;
or
 - (ii) if such variation would increase or decrease the quantity by less than the percentage permitted as per SCC or;
- 3.1.2.5 Except as expressly stated in the Contract, the Engineer shall have no authority to relieve the Contractor of any of his obligations under the Contract.

4 Contractor

4.1 Contractor's General Responsibilities

The Contractor shall, with due care and diligence, design (to the extent provided for by the Contract), execute and complete the Works and remedy any defects therein in accordance with the provisions of the Contract. The Contractor shall provide all superintendence, labour, materials, Plant, Contractor's Equipment and all other things, whether of a temporary or permanent nature, required in and for such design, execution, completion and remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract.

The Contractor shall give prompt notice to the Engineer, with a copy to the Employer, of any error, omission, fault or other defect in the design of or Specification for the Works which he discovers when reviewing the Contract or executing the Works.

4.2 Site Operations and Methods of Construction

The Contractor shall take full responsibility for the adequacy, stability and safety of all Site operations and methods of construction. Provided that the Contractor shall not be responsible (except as stated hereunder or as may be otherwise agreed) for the design or specification of Permanent Works, or for the design or specification of any Temporary Works not prepared by the Contractor. Where the Contract expressly provides that part of the Permanent Works shall be designed by the Contractor, he shall be fully responsible for that part of such Works, notwithstanding any approval by the Engineer.

4.3 Contract Agreement

- 4.3.1 The Contractor shall, if called upon so to do, enter into and execute the Contract Agreement, to be prepared and completed at the cost of the Employer, in the form annexed to these Conditions with such modification as may be necessary. The Parties shall enter into a Contract Agreement within 28 days after the date of issue of the Letter of Award.
- 4.3.2 The Contractor shall be furnished free of charge certified true copy of the contract document.
- 4.3.3 A copy of the Contract Document furnished to the Contractor as aforesaid shall be kept by the Contractor on the Site in good condition and the same shall at all reasonable time be available for inspection and use by the Engineer-in-Charge, his representatives or by other Inspecting officers of the Authority.
- 4.3.4 None of these Documents shall be used by the Contractor for any purpose other than that of this contract.

4.4 Performance Guarantee and Retention amount

- 4.4.1 The contractor shall be required to deposit an amount equal to 5% of the contract value of the work as performance guarantee in the form of irrevocable bank guarantee bond of any scheduled bank or State Bank of India in accordance with the form prescribed within 7 days of the issue of the work order. The performance security shall be issued by a scheduled or nationalized bank in India.

Without limitation to the provisions of the preceding paragraph, whenever the Engineer determines an addition to the Contract Price as a result of a change in cost and/or legislation or as a result of a variation amounting to more than 10 percent of the portion of the Contract Price, the Contractor, at the Engineer's written request, shall promptly increase the value of the performance security proportionately.

The Performance Security shall be valid until the Contractor has executed and completed the Works and remedied any defects therein in accordance with the Contract. **No claim shall be made against such security after the issue of the Defects Liability Certificate in accordance with Sub-Clause 11.7 and such security shall be returned to the Contractor within 21 days of the completion of the said Defects Liability Certificate.** In case the extension of time for completion, the contractor shall get the validity of the performance guarantee extended to cover such extension of time of the work.

4.4.2 Retention amount

- 4.4.2.1 A sum @ 10% of the gross amount of the bill shall be deducted from each running bill of the contractor till the sum already deposited as the earnest money amount to security deposit of 10% of the contract value of work. Bank guarantee will not be accepted as security deposit.

The earnest money deposited in the form of Bank guarantee shall remain with IWAI and will be returned after completion of the contract.

- 4.4.2.2 **The total security deposit shall remain with IWAI till the completion of the work and recording of completion certificate, provided the Engineer-in-Charge is satisfied that there is no demand outstanding against the contractor.**

- 4.4.2.3 No interest will be paid on Retention amount
- 4.4.2.4 If the contractor neglects to observe or fails to perform any of his obligations under the contract, it shall be lawful for the Employer/ EIC to forfeit either in whole or in part, the Retention amount furnished by the contractor. However, if the contractor duly performs and completes the contract in all respects and presents in absolute "NO DEMAND CERTIFICATE" in the prescribed form, IWAI shall refund the Retention amount to the contractor after deduction of cost and expenses that the Authority may have incurred and other money including all losses and damages which the Authority is entitled to recover from the Contractor.

- 4.4.2.5 In case of delay in the progress of work, the Engineer- in-Charge shall issue to the contractor a memo in writing pointing out the delay in progress and calling upon the contractor to explain the causes for the delay within 3 days of receipt of the memo and 10 days from issuance of memo whichever is earlier. If the Engineer-in-Charge is not satisfied with the explanations offered, he may forfeit the security deposit and / or withhold payment of pending bills in whole or in part and/ or get the measures of rectification of progress of work accelerated to the pre-defined level at the risk and cost of the contractor.

4.4.2.6

- 4.4.2.7 In case the contractor fails to commence the works or when the contractor has defaulted for more than thirty days or when any amount is to be recovered from

the contractor as penalty or deduction and the contractor fails to remit such amount even after due notice is given to him in this regard, IWAI at its own discretion may en-cash the Bank Guarantee furnished as performance guarantee and /or recover the sum from his Retention amount

4.5 Inspection of Site

The Employer shall have made available to the Contractor, before the submission by the Contractor of the Tender, such available data on hydrological and hydrographical, results of rock testing, surface soil testing, bore hole data at the proposed terminal locations, as have been obtained by or on behalf of the Employer from investigations undertaken relevant to the Works but the Contractor shall be responsible for his own interpretation thereof.

The Contractor acknowledges that it has inspected and examined the Site and its surroundings and information available in connection therewith and to have satisfied himself (so far as is practicable, having regard to considerations of cost and time) before submitting his Tender, as to:

- a) The form and nature thereof, including the sub-surface conditions,
- b) The hydrological, hydrographical and climatic conditions,
- c) The extent and nature of work and materials necessary for the execution and completion of the works and the remedying of any defects therein, and
- d) The means of access to the site and the accommodation he may require,
- e) Power, water, fuel and other supplies he may require
- f) The infrastructure for transportation of men and material along the project corridor
- g) Market rates of the items in the working country
- h) Medical facilities and
- i) General safety & security of project area and
- j) The Laws, procedures and labour practices of the Country

and, in general, shall be deemed to have obtained all necessary information, subject as above mentioned, as to risks, contingencies and all other circumstances which may influence or affect his Tender. The Contractor shall be deemed to have based his Tender on the data made available by the Employer and on his own inspection and examination, all as aforementioned.

4.6 Sufficiency of Tender

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Tender and of the rates and prices stated in the Bill of Quantities, all of which shall, except insofar as it is otherwise provided in the Contract, cover all his obligations under the Contract (including those in respect of the supply of goods, materials, Plant or services or of contingencies) and all matters and things necessary for the proper execution and completion of the Works and the remedying of any defects therein.

4.7 Unforeseeable Physical Obstructions or Conditions

If, however, during the execution of the Works the Contractor encounters physical obstructions or physical conditions, other than climatic, sea, river conditions on the Site, such obstructions or conditions were, in his opinion, not foreseeable by an experienced contractor, the Contractor shall forthwith give notice thereof to the Engineer, with a copy to the Employer. On receipt of such notice, the Engineer shall, if in his opinion such obstructions or conditions could not have been reasonably foreseen by an experienced contractor, after due consultation with the Employer and the Contractor, determine

- a. Any extension of time to which the Contractor is entitled under sub clause 8.6, 8.7 and 8.8 of clause 8.
- 4.8 The amount of any costs which may have been incurred by the Contractor by reason of such obstructions or conditions having been encountered shall not be entertained.

4.9 **Work to be in Accordance with Contract**

Unless it is legally or physically impossible, the Contractor shall execute and complete the Works and remedy any defects therein in strict accordance with the Contract to the satisfaction of the Engineer. The Contractor shall comply with and adhere strictly to the Engineer's instructions on any matter, whether mentioned in the Contract or not, touching or concerning the Works. The Contractor shall take instructions only from the Engineer (or his Representatives or Assistants)

4.10 Contractor's Programme

4.10.1 The Contractor shall, within the time stated in the SCC, after the date of issue of the Letter of Award, submit to the Engineer for his consent a programme, in such form and detail as the Engineer shall reasonably prescribe, for the execution of the Works. The Contractor shall, whenever required by the Engineer, also provide in writing for his information a general description of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works.

4.10.2 Revised Programme

If at any time it should appear to the Engineer that the actual progress of the Works does not conform to the programme to which consent has been given under Sub-Clause 4.9.1, the Contractor shall produce, at the request of the Engineer, a revised programme showing the modifications to such programme necessary to ensure completion of the Works within the Time for Completion.

4.10.3 Cash Flow Estimate to be submitted

The Contractor shall, within the time stated in the SCC, after the signing of Agreement, provide to the Engineer for his information a detailed 3 months rolling cash flow, of all payments to which the Contractor will be entitled under the Contract and the Contractor shall subsequently supply revised cash flow estimates at quarterly intervals, if required to do so by the Engineer.

4.10.4 Contractor not relieved of Duties or Responsibilities

The submission to and consent by the Engineer of such programmes or the provision of such general descriptions or cash flow estimates shall not relieve the Contractor of any of his duties or responsibilities under the Contract.

4.11 Contractor's Superintendence

The Contractor shall provide all necessary superintendence during the execution of the Works and as long thereafter as the Engineer may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or a competent and authorised representative approved of by the Engineer, which approval may at any time be withdrawn, shall give his whole time to the superintendence of the Works. Such authorised representative shall receive, on behalf of the Contractor, instructions from the Engineer.

If approval of the representative is withdrawn by the Engineer, the Contractor shall, as soon as is practicable, having regard to the requirement of replacing him as hereinafter mentioned,

after receiving notice of such withdrawal, remove the representative from the Works and shall not thereafter employ him again on the Works in any capacity and shall replace him by another representative approved by the Engineer.

4.12 Contractor's Employees

The Contractor shall provide on the Site in connection with the execution and completion of the Works and the remedying of any defects therein

- (a) only such technical personnel as are skilled and experienced in their respective callings and such foremen and leading hands as are competent to give proper superintendence of the Works, and
- (b) such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely fulfilling of the Contractor's obligations under the Contract.

4.13 Setting out

The Contractor shall be responsible for:

- (a) the accurate setting-out of the Works in relation to original points, lines and levels of reference given by the Engineer in writing,
- (b) the correctness, subject as above mentioned, of the position, levels, dimensions and alignment of all parts of the Works, and
- (c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.

If, at any time during the execution of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required so to do by the Engineer, shall, at his own cost, rectify such error to the satisfaction of the Engineer.

The checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other things used in setting-out the Works.

4.14 Safety and Security

The Contractor shall, throughout the execution and completion of the Works and the remedying of any defects therein:

- (a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons,
- (b) provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when and where necessary or required by the Engineer or by any duly constituted authority, for the protection of the Works or for the safety and convenience of the public or others, and

4.15 Electricity, Water and Gas

The Contractor shall be responsible for the provision of all power, water and other services he may require for his execution of the Works.

4.16 Protection of the Environment

The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the permissible / acceptable values, and shall not exceed the values prescribed by applicable Laws. The Contractor is required to establish and operate with suitably qualified personnel a system for monitoring the environmental factors that may be directly impacted by the Works and make available such records for inspection of Engineer or duly authorized representatives of government of the country in which Works are executed as and when so required.

4.17 Care of Works

The Contractor shall take full responsibility for the care of the Works and materials and Plant for incorporation therein from the Commencement Date until the date of issue of the Taking-Over Certificate for the whole of the Works, when the responsibility for the said care shall pass to the Employer. Provided that:

- (a) if the Engineer issues a Taking-Over Certificate for any Section or part of the Permanent Works, the Contractor shall cease to be liable for the care of that Section or part from the date of issue of the Taking-Over Certificate, when the responsibility for the care of that Section or part shall pass to the Employer, and
- (b) the Contractor shall take full responsibility for the care of any outstanding Works and materials and Plant for incorporation therein which he undertakes to finish during the Defects Liability Period until such outstanding Works have been completed pursuant to Clause 11.

4.18 Responsibility to Rectify Loss or Damage

If any loss or damage happens to the Works, or any part thereof, or materials or Plant for incorporation therein, during the period for which the Contractor is responsible for the care thereof, from any cause whatsoever the Contractor shall, at his own cost, rectify such loss or damage so that the Permanent Works conform in every respect with the provisions of the Contract to the satisfaction of the Engineer. The Contractor shall also be liable for any loss or damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under Clause 11.

4.19 Compliance with Statutes, Regulations

The Contractor shall conform in all respects, including by the giving of all notices and the paying of all fees, with the provisions of:

- (a) any National or State Statute, Ordinance, or other Law, or any regulation, or bye-law of any local or other duly constituted authority in relation to the execution and completion of the Works and the remedying of any defects therein, and
- (b) the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the Works, and the Contractor shall keep the Employer indemnified against all penalties and liability of every kind for breach of any such provisions. Provided always that the Employer shall be responsible for obtaining any planning, zoning or other similar permission required

for the Works to proceed and shall indemnify the Contractor in accordance with Sub-Clause 20.7.

4.20 Deleted.

4.21 Patent Rights

The Contractor shall save harmless and indemnify the Employer from and against all claims and proceedings for or on account of infringement of any patent rights, design trademark or name or other protected rights in respect of any Contractor's Equipment, materials or Plant used for or in connection with or for incorporation in the Works and from and against all damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, except where such infringement results from compliance with the design or Specification provided by the Engineer.

4.22 Copy Right

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

4.23 Royalties

Except where otherwise stated, the Contractor shall pay all tonnage and other royalties, rent and other payments or compensation, if any, for getting stone, sand, gravel, clay or other materials required for the Works as per governing laws.

4.24 Interference with Traffic and Adjoining Properties

All operations necessary for the execution and completion of the Works and the remedying of any defects therein shall, so far as compliance with the requirements of the Contract permits, be carried on so as not to interfere unnecessarily or improperly with:

- (a) the convenience of the public, or
- (b) the access to, use and occupation of public or private roads and footpaths to or of properties whether in the possession of the Employer or of any other person.

The Contractor shall save harmless and indemnify the Employer in respect of all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of, or in relation to, any such matters insofar as the Contractor is responsible there for.

4.25 Avoidance of Damage to works, temporary structure/permanent structure.

The Contractor shall use every reasonable means to prevent any of the roads or bridge jetties, wharfs or river channels, temporary berths for inland vessels, communicating with or on the routes to the Site from being damaged or injured by any traffic of the Contractor or any of his Subcontractors and, in particular, shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of materials, Plant, Contractor's Equipment or Temporary Works from and to the Site shall be limited, as far as reasonably possible, and so that no unnecessary damage or injury may be occasioned to such roads and bridges or other structures. However, if any claim arises regarding damage, maintenance/repairs/reconstruction/replacement would be contractor's liability.

4.26 Transport of Contractor's Equipment or Temporary Works

Save insofar as the Contract otherwise provides, the Contractor shall be responsible for and shall pay the cost of strengthening any bridges, jetties, wharfs or altering or improving any road or river channels, temporary berths for inland vessels, communicating with or on the routes to the Site to facilitate the movement of Contractor's Equipment or Temporary Works and the Contractor shall indemnify and keep indemnified the Employer against all claims for damage to any such road or bridge or other structures caused by such movement, including such claims as may be made directly against the Employer, and shall negotiate and pay all claims arising solely out of such damage, the costs of which are deemed to be included in the contract price. The Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works

4.27 Transport of Materials or Plant

If, notwithstanding Sub-Clause 4.25, any damage occurs to any bridge or road or structure jetties, wharfs or river channels, temporary berths for communicating with or on the routes to the Site arising from the transport of materials or Plant, the Contractor shall notify the Engineer with a copy to the Employer, as soon as he becomes aware of such damage or as soon as he receives any claim from the authority entitled to make such claim. In such cases the Contractor shall negotiate the settlement of and pay all sums due in respect of such claim and shall indemnify the Employer in respect thereof and in respect of all claims, proceedings, damages, costs, charges and expenses in relation thereto. Provided that if and so far as any such claim or part thereof is, in the opinion of the Engineer, due to any failure on the part of the Contractor to observe and perform his obligations under Sub-Clause 4.25, and the Contractor fails to take adequate steps to settle any claims arising, the Engineer will be at liberty to negotiate with such claimant and pay for damages which shall be recoverable from the Contractor by the Employer and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. The Contractor shall give the Employer not less than 21 days' notice of the date on which any Equipment, Plant or a major item of other Goods will be delivered to the Site;

4.28 Waterborne Traffic

Where the nature of the Works is such as to require the use by the Contractor of waterborne transport, the foregoing provisions of this Clause shall be construed as though "road" included a lock, dock, sea wall or other structure related to a waterway and "vehicle" included craft, and shall have effect accordingly.

4.29 Opportunities for Other Contractors

The Contractor shall, in accordance with the requirements of the Engineer, afford all reasonable opportunities for carrying out their work to:

- (a) any other contractors employed by the Employer and their workmen
- (b) the workmen of the Employer, and
- (c) the workmen of any duly constituted authorities who may be employed in the execution on or near the Site of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the Works.

4.30 Facilities for Other Contractors

If however, pursuant to Sub-Clause 4.29 the Contractor shall, on the written request of the Engineer:

- (a) make available to any such other contractor, or to the Employer or any such authority, any roads or ways for the maintenance of which the Contractor is responsible,
- (b) permit the use, by any such, of Temporary Works or Contractor's Equipment on the Site, or

4.31 Contractor to Keep Site Clear

During the execution of the Works the Contractor shall keep the Site reasonably free from all unnecessary obstruction and shall store or dispose off any Contractor's Equipment and surplus materials and clear away and remove from the Site any wreckage, rubbish or Temporary Works no longer required.

4.32 Clearance of Site on Completion

Prior to the issue of any Taking-Over Certificate the Contractor shall clear away and remove from that part of the Site to which such Taking-Over Certificate relates all Contractor's Equipment, surplus material, rubbish and Temporary Works of every kind, and leave such part of the Site and Works clean and in a workmanlike condition to the satisfaction of the Engineer. Provided that the Contractor shall be entitled to retain on Site, until the end of the Defects Liability Period, such materials, Contractor's Equipment and Temporary Works as are required by him for the purpose of fulfilling his obligations during the Defects Liability Period.

4.33 Language Ability of Superintending Staff

A reasonable proportion of the Contractor's superintending staff shall have a working knowledge of the local language of the Site and English language, or the Contractor shall have available on site at all times a sufficient number of competent interpreters to ensure the proper transmission of instructions and information.

4.34 Employment of Local Personnel

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within the country of the Employer and the country/place where the Work is executed.

4.35 Boreholes and Exploratory Excavation

In respect of Works which the Contractor is required to design, prepare drawings, engineer and construct to the requirements of Employer, any boreholes or exploratory excavation that may be required to be undertaken before commencement or during execution of Works will have to be carried out by the Contractor at no extra cost.

4.36 Contractor's Equipment, Temporary Works and Materials

4.36.1 Contractor's Equipment, Temporary Works and Materials; Exclusive Use for the Works

All Contractor's Equipment, Temporary Works and materials provided by the Contractor shall, when brought on to the Site, be deemed to be exclusively intended for the execution of the Works and the Contractor shall not remove the same or any

part thereof, except for the purpose of moving it from one part of the Site to another, without the consent of the Engineer. Provided that consent shall not be required for vehicles, floating crafts engaged in transportation of staff, labour, Contractor's Equipment, Temporary Works, Plant or materials to or from the Site.

4.36.2 Employer not Liable for Damage

The Employer shall not at any time be liable, as mentioned in Clauses 2.2, 4.16, 4.17, 4.18 and 14, for the loss of or damage to any of the said Contractor's Equipment, Temporary Works or materials.

4.36.3 Customs Clearance

The Employer will use his best endeavours in assisting the Contractor, where required, in obtaining clearance through the Customs of Contractor's Equipment, materials and other things required for the Works. The provisions contained in the Framework Agreement shall apply.

4.36.4 Re-export of Contractor's Equipment

In respect of any Contractor's Equipment which the Contractor has imported for the purposes of the Works, the Employer will use his best endeavours to assist the Contractor, where required, in procuring any necessary Government consent to the re-export of such Contractor's Equipment by the Contractor upon the removal thereof pursuant to the terms of the Contract and in accordance with the provisions contained in the Framework agreement.

4.36.5 Conditions of Hire of Contractor's Equipment

With a view to securing, in the event of termination under Clause 17, the continued availability, for the purpose of executing the Works, of any hired Contractor's Equipment, the Contractor shall not remove or withdraw any of such equipment, materials, temporary works or plant from the site without obtaining written permission to do so issued by the Engineer. Employer shall be entitled to permit the use thereof by any other contractor employed by him for the purpose of executing and completing the Works and remedying any defects therein, under the terms of the said Clause 17.

4.36.6 Deleted.

4.36.7 Incorporation of Clause in Subcontracts

The Contractor shall, where entering into any subcontract for the execution of any part of the Works, incorporate in such subcontract (by reference or otherwise) the provisions of sub clauses 4.36.5 and 4.36.6 in relation to Contractor's Equipment, Temporary Works or materials brought on to the Site by the Subcontractor and employer shall be kept indemnified against any claim arising out of such subcontractor.

4.36.8 Co-operation

The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:

- a) the Employer's Personnel,
- b) any other contractors employed by the Employer, and

c) the personnel of any legally constituted public authorities,

who may be employed in the execution on or near the Site of any work not included in the Contract. Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements, which are the responsibility of the Contractor.

If, under the Contract, the Employer is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the EMPLOYER/ENGINEER in the time and manner stated in the Specification.

4.37 Deleted

5 Assignment and Subcontracting

5.1 Assignment of Contract

The Contractor shall not, without the prior consent of the Employer (which consent shall be at the sole discretion of the Employer), assign the Contract or any part thereof, or any benefit or interest therein or thereunder.

5.2 Subcontracting

The Contractor shall not subcontract the whole of the Works. Except where otherwise provided by the Contract, the Contractor shall not subcontract any part of the Works without the prior consent of the Employer conveyed through the Engineer. A subcontractor under the Contract must be a firm or person or entity that satisfy the relevant provisions of the Framework Agreement. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any Subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen. The work subcontracted shall not be more than 15% of the contract value. If the Engineer gives his consent to the contractor to subcontract part of the work and the value of such work is more than 10% of the contract amount, the sub-contractor shall have to submit all relevant documents, as stipulated in ITB of this tender document which in turn shall be evaluated to check the capacity/capability of the proposed sub-contractor to execute the work assigned to him. Failing to do so, the Engineer may, at his discretion, reject contractor's claim to subcontract the work to such sub-contractor.

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

- (a) The provision of labour,
- (b) The purchase of materials which are in accordance with the standards specified in the Contract, or
- (c) The subcontracting of any part of the Works for which the Subcontractor is named in the original Contract.

In all other cases, the Contractor shall give the Employer not less than 14 days' notice of ;

- (a) The intended appointment of the Subcontractor, with detailed particulars which shall include his relevant experience,
- (b) The intended commencement of the Subcontractor's work, and

- (c) The intended commencement of the Subcontractor's work on the site.

5.3 Assignment of Subcontractors' Obligations

In the event of a Subcontractor having undertaken towards the Contractor in respect of the work executed, or the goods, materials, Plant or services supplied by such Subcontractor, any continuing obligation extending for a period exceeding that of the Defects Liability Period under the Contract, the Contractor shall at any time, after the expiration of such Period, assign to the Employer, at the Employer's request and cost, the benefit of such obligation for the unexpired duration thereof.

5.4 Nominated Subcontractors

5.4.1 Definition of "Nominated Subcontractors"

All specialists, merchants, tradesmen and others executing any work or supplying any goods, materials, Plant or services included in the Contract, who may have been or be nominated or selected or approved by the Employer or the Engineer, for the execution of such work or the supply of such goods, materials, Plant or services, be deemed to be subcontractors to the Contractor and are referred to in this Contract as "nominated Subcontractors".

5.4.2 Nominated Subcontractors; Objection to Nomination

The Contractor shall not be required by the Employer or the Engineer, or be deemed to be under any obligation, to employ any nominated Subcontractor against whom the Contractor may raise reasonable objection or who declines to enter into a subcontract with the Contractor containing provisions:

- (a) that in respect of the work, goods, materials, Plant or services the subject of the subcontract, the nominated Subcontractor will undertake towards the Contractor such obligations and liabilities as will enable the Contractor to discharge his own obligations and liabilities towards the Employer under the terms of the Contract and will save harmless and indemnify the Contractor from and against the same and from all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection therewith, or arising out of or in connection with any failure to perform such obligations or to fulfil such liabilities, and
- (b) that the nominated Subcontractor will keep harmless and indemnify the Contractor from and against any negligence by the nominated Subcontractor, his agents, workmen and servants and from and against any misuse by him or them of any Temporary Works provided by the Contractor for the purposes of the Contract and from all claims as aforesaid.

5.4.3 Design Requirements to be Expressly Stated

If in connection with any services to be provided in relation to execution of Works include any matter of design or specification of any part of the Permanent Works or of any Plant to be incorporated therein, such requirement shall be expressly stated in the Contract and shall be included in any nominated Subcontract. The nominated Subcontract shall specify that the nominated Subcontractor providing such services will keep harmless and indemnify the Contractor from and against the same and from all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection with any failure to perform such obligations or to fulfil such liabilities.

5.4.4 Payments to Nominated Subcontractors

For all work executed or goods, materials, Plant or services supplied by any nominated Subcontractor, the Contractor shall be entitled to:

- (a) the actual price paid or due to be paid by the Contractor, on the instructions of the Engineer, and in accordance with the subcontract;
- (b) in respect of labour supplied by the Contractor, the sum, if any, entered in the Bill of Quantities or, if instructed by the Engineer pursuant to paragraph (a) of Sub-Clause 16.2.2, as may be determined in accordance with Clause 13.3, 13.4 and 13.5; and
- (c) in respect of all other charges and profit, a sum being a percentage rate of the actual price paid or due to be paid calculated, where provision has been made in the Bill of Quantities for a rate to be set against the relevant Provisional Sum, at the rate inserted by the Contractor against that item or, where no such provision has been made, at the rate inserted by the Contractor in the SCC and repeated where provision for such is made in a special item provided in the Bill of Quantities for such purpose.

5.4.5 Certification of Payments to Nominated Subcontractors

Before issuing, under Clause 15, any certificate, which includes any payment in respect of work done or goods, materials, Plant or services supplied by any nominated Subcontractor, the Engineer shall be entitled to demand from the Contractor reasonable proof that all payments, less retentions, included in previous certificates in respect of the work or goods, materials, Plant or services of such nominated Subcontractor have been paid or discharged by the Contractor. If the Contractor fails to supply such proof then, unless the Contractor:

- (a) satisfies the Engineer in writing that he has reasonable cause for withholding or refusing to make such payments, and
- (b) produces to the Engineer reasonable proof that he has so informed such nominated Subcontractor in writing,

the Employer shall be entitled to pay to such nominated Subcontractor direct, upon the certificate of the Engineer, all payments, less retentions, provided for in the nominated Subcontract, which the Contractor has failed to make to such nominated Subcontractor and to deduct by way of set-off the amount so paid by the Employer from any sums due or to become due from the Employer to the Contractor.

Provided that, where the Engineer has certified and the Employer has paid direct as aforesaid, the Engineer shall, in issuing any further certificate in favour of the Contractor, deduct from the amount thereof the amount so paid, direct as aforesaid, but shall not withhold or delay the issue of the certificate itself when due to be issued under the terms of the Contract.

6 Staff & Labour

6.1 Engagement of Staff and Labour

The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing,

feeding and transport. In engagement of labour, the provisions in that respect contained in the Framework Agreement shall be fully complied with by the Contractor.

6.2 Foreign staff, labour and Repatriation.

The Contractor may import to the country where Works are executed any personnel who are necessary for the execution of Works. The Contractor must ensure that these personnel are provided with the required residence visas and work permits. The Contractor shall be responsible for the return to the place where they were recruited or to their domicile of all such persons as he recruited and employed for the purposes of or in connection with the contract and he shall maintain such persons as are to be so returned in a suitable manner until they shall have left the site.

6.3 Housing for Labour

Save insofar as the contract otherwise provides, the Contractor shall provide and maintain such accommodation and amenities as he may consider necessary for all his staff and labour, employed for the purposes of or in connection with the Contract, including all fencing, water supply (both for drinking and other purposes), electricity supply, sanitation, cookhouses, fire prevention and fire-fighting equipment, air conditioning, cookers, refrigerators, furniture and other requirements in connection with such accommodation or amenities. On completion of the Contract, unless otherwise agreed with the Employer, the temporary camps / housing provided by the Contractor shall be removed and the site reinstated to its original condition, all to the approval of the Engineer.

6.4 Health and Safety

Due precautions shall be taken by the contractor, and at his own cost, to ensure the safety of his staff and labour and, in collaboration with and to the requirements of the local health authorities, to ensure that medical staff, first aid equipment and store, sick bay and suitable ambulance service to the maximum extent the site conditions permit, are available at the camps, housing and on the Site at all times throughout the period of the contract and that suitable arrangements are made for the prevention of epidemics and for all necessary welfare and hygiene requirements.

6.5 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect all staff and labour employed on the site from insect nuisance, rats and other pests and reduce the dangers to health and the general nuisance occasioned by the same. The Contractor shall provide his staff and labour with suitable prophylactics for the prevention of malaria and take steps to prevent the formation of stagnant pools of water. He shall comply with all the regulations of the local health authorities in these respects and shall in particular arrange to spray thoroughly with approved insecticide all buildings erected on the Site. Such treatment shall be carried out at least once a year or as frequently as necessary or as instructed by the Engineer. The contractor shall warn his staff and labour of the dangers of hazardous flora and fauna within the project area.

6.6 Epidemics

In the event of any outbreak of illness of an epidemic nature, the contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government,

or the local medical or sanitary authorities, for the purpose of dealing with and overcoming the same.

6.7 Arms and ammunition

The Contractor shall not give, barter or otherwise dispose of to any person, any arms or ammunitions of any kind, or allow Contractor's personnel to do so.

6.8 Fair Wages

The Contractor shall pay to labourer employed by him either directly or through sub-contractors wages not less than wages as defined in Minimum Wages Act 1948 and Contract Labour (Regulation and Abolition) Act 1970 amended from time to time and rules framed there-under and other labour laws affecting contract labour that may be brought in force from time to time.

In respect of labour directly or indirectly employed in the works, the contractor shall comply with the rules and regulations on the maintenance of suitable records prescribed for this purpose from time to time by the Government. He shall maintain his accounts and vouchers on the payment of wages to the labourers to the satisfaction of the Engineer. The Engineer shall have the right to call for such record as required to satisfy himself on the payment of fair wages to the labourers and shall have the right to deduct from the contract amount a suitable amount for making good the loss suffered by the worker or workers by reason of the "fair wages" clause to the workers.

The contractor shall be primarily liable for all payments to be made and for the observance of the regulations framed by the Govt. from time to time without prejudice to his right to claim indemnity from his sub-contractors. Equal wages are to be paid for both men and women if the nature of work is same and similar.

6.9 Return of Labour and Contractor's Equipment

The Contractor shall, if required by the Engineer, deliver to the Engineer a return in detail, in such form and at such intervals as the Engineer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such information respecting Contractor's Equipment as the Engineer may require.

6.10 Child labour

The contractor shall not engage children below the age of 14, directly or indirectly, for the execution of this contract. Contractor shall observe compliance to all the acts pertaining to child labour, health & safety and any other such laws existing in the Employers country. If at any time children below the age of 14 are found to be engaged, directly or indirectly, by the contractor or his representatives, the contractor shall face deduction of an amount of 1% of the amount from the bill submitted by the contractor after such discovery. This deduction shall be in addition of the penalties imposed by concerned regulatory bodies for practicing child labour.

6.11 Removal of Contractor's men

The contractor shall employ for the execution of the works only such persons who are skilled and experienced in their respective trades and Engineer-in-charge shall be at liberty to object and to ask the contractor to remove from the works any persons employed by the contractor for the execution of the works who, in the opinion of the EIC, misconduct themselves or are incompetent or negligent in the proper performance of their duties. The contractor shall forthwith comply with such requisition and such persons shall not be again employed upon

the works without the written permission of the EIC. Any person so removed from the work shall be immediately replaced at the expense of the contractor by a qualified and competent substitute. Should the contractor be requested to repatriate any person removed from the work, he shall do so and shall bear all costs in connection herewith.

6.12 Replacement of Key Personnel

The replacement of the key personnel shall only be on health grounds of the individual or if the personnel ceases to work for the contractor and is no longer an employee of the contractor. The contractor shall not replace any of the key personnel without the written consent of the Engineer-in-charge. In case Contractor engages in such activity i.e. replacement of key personnel with or without EICs consent, such action shall attract a deduction of 10% of the total amount from the running account bill. However, there shall be no deduction if the replacement is made on health grounds of the personnel. The contractor shall submit medical certificate of such personnel intended to be replaced on health grounds.

6.13 Labour laws

The Contractor shall also comply with the provisions of all Acts, Laws, any Regulation or Bye Laws of any Local or other Statutory Authority applicable in relation to the execution of works such as:

- i) Payment of Wages Act, 1936 (Amended)
- ii) Minimum Wages Act, 1948 (Amended).
- iii) The Contract Labour (Regulation & Abolition) Act, 1970 with Rules framed there under as amended.
- iv) Workmen Compensation Act, 1923 as amended by Amendment Act no.65 of 1976.
- v) Employer's Liability Act 1938 (Amended)
- vi) Maternity Benefit Act. 1961 (Amended)
- vii) The Industrial Employment (Standing orders) Act 1946 (Amended).
- viii) The Industrial Disputes Act. 1947 (Amended)
- ix) Payment of Bonus Act.1965 and Amended Act No. 43 of 1977 and No. 48 of 1978 and any amended thereof:
- x) The Personal Injuries (Compensation Insurance) Act 1963 and any modifications thereof and rules made thereunder from time to time. The Contractor shall take into account all the above and financial liabilities in his quoted rates and nothing extra, whatsoever, shall be payable to him on this account.

The list is indicative only, otherwise the contractor should be aware of all the Acts/Labour Laws and should follow diligently on the work. The contractor shall be fully and personally responsible for the violation of any Act/Labour Law.

7 Materials, Plant and Workmanship

7.1 Quality of Materials, Plant and Workmanship

All materials, Plant and workmanship shall be:

- (a) of the respective kinds described in the Contract and in accordance with the Engineer's instructions, and
- (b) subjected from time to time to such tests as the Engineer may require at the place of manufacture, fabrication or preparation, or on the Site or at such other place or places as may be specified in the Contract, or at all or any of such places.

The Contractor shall provide such assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or Plant and shall supply samples of materials, before incorporation in the Works, for testing as may be selected and required by the Engineer.

The Contractor is encouraged, to the extent practicable and reasonable, to use materials, Contractor's Equipment, Plant, and supplies from sources within the country of the Employer and the country where Works are executed.

7.2 Cost of Samples

All samples shall be supplied by the Contractor at his own cost if the supply thereof is clearly intended by or provided for in the Contract.

7.3 Cost of Tests

The cost of making any test shall be borne by the Contractor if such test is:

- (a) clearly intended by or provided for in the Contract, or
- (b) particularised in the Contract (in cases of a test under load or of a test to ascertain whether the design of any finished or partially finished work is appropriate for the purposes which it was intended to fulfil) in sufficient detail to enable the Contractor to price or allow for the same in his Tender.

7.4 Cost of Tests not provided for

7.5 Engineer's Determination where Tests not provided for

Where, pursuant to Sub-Clause 7.4, this Sub-Clause applies, the Engineer shall, after due consultation with the Contractor, determine any extension of time to which the Contractor is entitled under sub clause 8.6, 8.7 and 8.8 of clause 8.

7.6 Inspection of Operations

The Engineer, and any person authorised by him, shall at all reasonable times have access to the Site and to all workshops and places where materials or Plant are being manufactured, fabricated or prepared for the Works and the Contractor shall afford every facility for and every assistance in obtaining the right to such access.

7.7 Inspection and Testing

The Engineer shall be entitled, during manufacture, fabrication or preparation to inspect and test the materials and Plant to be supplied under the Contract. If materials or Plant are being manufactured, fabricated or prepared in workshops or places other than those of the Contractor, the Contractor shall obtain permission for the Engineer to carry out such inspection and testing in those workshops or places. Such inspection or testing shall not release the Contractor from any obligation under the Contract.

7.8 Dates for Inspection and Testing

The Contractor shall agree with the Engineer on the time and place for the inspection or testing of any materials or Plant as provided in the Contract. The Engineer shall give the Contractor not less than 24 hours' notice of his intention to carry out the inspection or to attend the tests. If the Engineer, or his duly authorised representative, does not attend on the date agreed, the Contractor may, unless otherwise instructed by the Engineer, proceed with the tests and forthwith forward to the Engineer duly certified copies of the test readings. The Engineer will at the earliest but not later than 7 days from the date of receipt of such test-report, carry out scrutiny of the test readings and communicate to Contractor his concurrence to same or objections with reasons and instruction on further steps to be taken. If no communication is made by the Engineer within 7 days, the test shall be deemed to have been made in the presence of the Engineer.

7.9 Rejection

If, at the time and place agreed in accordance with Sub-Clause 7.8, the materials or Plant are not ready for inspection or testing or if, as a result of the inspection testing referred to in this Clause, the Engineer determines that the materials or Plant are defective or otherwise not in accordance with the Contract, he may reject the materials or Plant and shall notify the Contractor thereof immediately. The notice shall state the Engineer's objections with reasons. The Contractor shall then promptly make good the defect or ensure that rejected materials or Plant comply with the Contract. If the Engineer so requests, the tests of rejected materials or Plant shall be made or repeated under the same terms and conditions. All costs incurred by the Engineer by the repetition of the tests shall, after due consultation with the employer, be determined by the Engineer and shall be recoverable from the Contractor by the Employer and may be deducted from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the employer.

7.10 Independent Inspection

The Engineer may delegate inspection and testing of materials, Works or Plant to an independent inspector or inspecting agency of specialised competence, experience or accreditation in carrying out such inspection. Any such delegation shall be effected in accordance with Sub-Clause 3.4 and for this purpose such independent inspector shall be considered as an assistant of the Engineer.

7.11 Examination of Work before Covering up

No part of the Works shall be covered up or put out of view without the approval of the Engineer and the Contractor shall afford full opportunity for the Engineer to examine and measure any such part of the Works which is about to be covered up or put out of view and to examine foundations before any part of the Works is placed thereon. The Contractor shall give notice to the Engineer whenever any such part of the Works or foundations is or are ready or about to be ready for examination and the Engineer shall, without unreasonable delay, unless he considers it unnecessary and advises the Contractor accordingly, attend for the purpose of examining and measuring such part of the Works or of examining such foundations.

7.12 Uncovering and Making Openings

The Contractor shall uncover any part of the Works or make openings in or through the same as the Engineer may from time to time instruct and shall reinstate and make good such part. If any such part has been covered up or put out of view after compliance with the requirement of

Sub-Clause 7.11 and is found to be executed in accordance with the Contract, all costs shall be borne by the Contractor.

7.13 Removal of Improper Work, Materials or Plant

The Engineer shall have authority to issue instructions from time to time, for:

- (a) the removal from the Site, within such time or times as may be specified in the instruction, of any materials or Plant which, in the opinion of the Engineer, are not in accordance with the Contract,
- (b) the substitution of proper and suitable materials or Plant, and
- (c) the removal and proper re-execution, notwithstanding any previous test thereof or interim payment therefor, of any work which
 - (i) materials, Plant or workmanship, or
 - (ii) design by the Contractor or for which he is responsible, is not, in the opinion of the Engineer, in accordance with the Contract.

7.14 Default of Contractor in Compliance

In case of default on the part of the Contractor in carrying out such instruction within the time specified therein or, if none, within a reasonable time, the Employer shall be entitled to employ and pay other persons to carry out the same and all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

8 Commencement delays and suspensions

8.1 Commencement of Works

The Contractor shall commence the Works as soon as is reasonably possible after the receipt by him of a notice to this effect from the Engineer, which notice shall be issued within the time stated in the SCC after the date of the Letter of Award. Thereafter, the Contractor shall proceed with the Works with due expedition and without delay

8.2 Possession of Site and Access Thereto

As the Contract may prescribe:

- (a) The extent of portions of the Site of which the Contractor is to be given possession from time to time
- (b) The order in which such portions shall be made available to the Contractor, and, subject to any requirement in the Contract as to the order in which the Works shall be executed, the Employer will, with the Engineer's notice to commence the Works, give to the Contractor possession of
- (c) so much of the Site, and
- (d) such access as, in accordance with the Contract, is to be provided by the Employer as may be required to enable the Contractor to commence and proceed with the execution of the Works in accordance with the programme referred to in Clause 4.9, if any, and otherwise in accordance with such reasonable proposals as the Contractor

shall, by notice to the Engineer with a copy to the Employer, make. The Employer will, from time to time as the Works proceed, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the execution of the Works with due dispatch in accordance with such programme or proposals, as the case may be.

8.3 Failure to Give Possession

If the Contractor suffers delay and / or incurs costs from failure on the part of the Employer to give possession and access in accordance with the terms of Sub-Clause 8.2, the Engineer shall, after due consultation with the Employer and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under sub clause 8.6, 8.7 and 8.8 of clause 8,

8.4 Rights of Way and Facilities

The Contractor shall bear all costs and charges for special or temporary rights of way required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by him for the purposes of the Works

8.5 Time for Completion

The whole of the Works and, if applicable, any Section required to be completed within a particular time as stated in the SCC, shall be completed in accordance with the provisions of Clause 10, within the time stated in the SCC for the whole of the Works or the Section (as the case may be), calculated from the Commencement Date, or such extended time as may be allowed under sub clause 8.6, 8.7 and 8.8 of clause 8.

8.6 Extension of Time for Completion

In the event of:

- (a) the amount or nature of extra or additional work,
- (b) any cause of delay referred to in these Conditions,
- (c) exceptionally adverse climatic conditions,
- (d) any delay, impediment or prevention by the Employer, or
- (e) other special circumstances which may occur, other than through a default of or breach of contract by the Contractor or for which he is responsible,

being such as fairly to entitle the Contractor to an extension of the Time for Completion of the Works, or any Section or part thereof, the Engineer shall, after due consultation with the Employer and the Contractor, determine the amount of such extension and shall notify the Contractor accordingly, with a copy to the Employer.

8.7 Contractor to Provide Notification and Detailed Particulars

Provided that the Engineer is not bound to make any determination unless the Contractor has

- (a) within 28 days after such event has first arisen notified the Engineer with a copy to the Employer, and
- (b) within 28 days, or such other reasonable time as may be agreed by the Engineer, after such notification submitted to the Engineer detailed particulars of any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time.

8.8 Interim Determination of Extension

Provided also that where an event has a continuing effect such that it is not practicable for the Contractor to submit detailed particulars within the period of 28 days referred to in Sub-Clause 8.7 (b), he shall nevertheless be entitled to an extension of time provided that he has submitted to the Engineer interim particulars at intervals of not more than 28 days and final particulars within 28 days of the end of the effects resulting from the event. On receipt of such interim particulars, the Engineer shall, without undue delay, make an interim determination of extension of time and, on receipt of the final particulars, the Engineer shall review all the circumstances and shall determine an overall extension of time in regard to the event. In both such cases the Engineer shall make his determination after due consultation with the Employer and the Contractor and shall notify the Contractor of the determination, with a copy to the Employer. No final review shall result in a decrease of any extension of time already determined by the Engineer.

8.9 Restriction on Working Hours

Subject to any provision to the contrary contained in the Contract, none of the Works shall, save as hereinafter provided, be carried on during the night or on locally recognised days of rest without the consent of the Engineer. Provided that the provisions of this Clause shall not be applicable in the case of any work which it is customary to carry out by multiple shifts.

8.10 Progress Reports

Unless otherwise stated, monthly progress reports shall be prepared by the Contractor and submitted to the Engineer in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates. Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Each report shall include:

- (a) charts and detailed descriptions of progress, including each stage of design, Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection, testing, commissioning and trial operation;
- (b) photographs showing the status of manufacture and of progress on the Site;
- (c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
 - (i) commencement of manufacture,
 - (ii) Contractor's inspections,
 - (iii) tests, and
 - (iv) shipment and arrival at the Site;
- (d) the details of Contractor's Personnel and Equipment deployed during the report period;
- (e) list of Variations, and notices given, if any, under Sub-Clauses related to Employer's Claims and Contractor's Claims;

- (f) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- (g) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.
- (h) One month target to be taken up along with comments to catch up the slipped milestone/target.

8.11 Rate of Progress

If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the Works or any Section is at any time, in the opinion of the Engineer, too slow to comply with the Time for Completion, the Engineer shall so notify the Contractor who shall thereupon take such steps as are necessary, subject to the consent of the Engineer, to expedite progress so as to comply with the Time for Completion. The Contractor shall not be entitled to any additional payment for taking such steps.

8.12 Liquidated Damages for Delay

8.12.1 If the Contractor fails to comply with the Time for Completion in accordance with Clause 10, for the whole of the Works or, if applicable, any Section within the relevant time prescribed by Clause 8.5, then the Contractor shall pay to the Employer the relevant sum stated below:-

- a. If the contractor fails to maintain the required progress in terms of clause 8.5 or to complete the work and clear the site on or before the date of completion as per the contract or extended date of completion, he shall, without prejudice to any other right or remedy available under the law to the authority on account of such breach, pay as agreed liquidated damages the amount calculated at the rates stipulated below.

- (i) Liquidated Damages for delay of work @ 1.5 % per month of delay to be computed on per day basis

Provided that the total amount of penalty for the delay to be paid under this condition shall not exceed 10% of the Tendered Value of work.

1. Milestones

The Contractor shall during the execution of works adhere to the Project Milestone set forth so as to ensure the completion of Works within the stipulated duration.

Dredging

| Sr. No. | Milestone | Time Allowed from the Date of Award of Contract | Payments |
|---------|---|---|--|
| 1 | Completion of bank to bank Bathymetric Survey at 50 m interval for dredging and longitudinal survey for Navigational Aids and Preliminary Works | 60 days | mobilization advance 10% of contract value |
| 2 | Submission of Draft Design for approval of Employer | | |
| 3 | Final Design for execution and mobilization to start dredging works at site | | |
| 4 | 25,000 cum of Dredging Quantity to be dredged and post dredging survey | Monthly | 90% of total cost (dredging) i.e. as per BoQ in the form of monthly RA bills |

Navigational Aids

| Sr. No. | Milestone | Time Allowed from the Date of Award of Contract | Payments |
|---------|---|---|---|
| 1 | Submission of design, drawing for navigational aids as per approved specification | 30 days | Nil |
| 2 | Inspection of Buoy as per approved design and drawing with testing at factory by IWAI | 60 days | |
| 3 | Delivery of required no. of Buoys at site | 120 days | |
| 4 | Installation and testing of buoys at site | 150 days | 90% of total cost (navigational buoy) i.e. as per BoQ in the form of monthly RA bills |

Failure of milestones would attract LD as defined GCC and SC

8.13 Suspension of Work

The Contractor shall, on the instructions of the Employer communicated by the Engineer suspend the progress of the Works or any part thereof for such time or times and in such manner as the Engineer may consider necessary and shall, during such suspension, properly protect and secure the Works or such part thereof so far as is necessary in the opinion of the Engineer. Unless such suspension is:

- (a) otherwise provided for in the Contract,
- (b) necessary by reason of some default of or breach of contract by the Contractor or for which he is responsible,
- (c) necessary by reason of climatic conditions on the Site, or
- (d) necessary for the proper execution of the Works or for the safety of the Works or any part thereof (save to the extent that such necessity arises from any act or default by the Engineer or the Employer or from any of the risks defined in Sub-Clause 2.2), Sub-Clause 8.15 shall apply.

8.14 Engineer's Determination following Suspension,

Where, pursuant to Sub-Clause 8.14, this Sub-Clause applies the Engineer shall after due consultation with the Employer and the Contractor, determine

- (a) any extension of time to which the Contractor is entitled under sub clause 8.6,8.7 and 8.8 of clause 8.

8.15 Suspension lasting more than 84 Days

If the progress of the Works or any part thereof is suspended on the instructions of the Engineer and if permission to resume work is not given by the Engineer within a period of 84 days from the date of suspension then, unless such suspension is within paragraph (a), (b), (c) or (d) of Sub-Clause 8.14, the Contractor may give notice to the Engineer requiring permission, within 28 days from the receipt thereof, to proceed with the Works or that part thereof in regard to which progress is suspended. If, within the said time, such permission is not granted, the Contractor may, but is not bound to, elect to treat the suspension, where it affects part only of the Works, as an omission of such part under Clause 13.1 and 13.2 by giving a further notice to the Engineer to that effect, or, where it affects the whole of the Works, treat the suspension as an event of default by the Employer and terminate his employment under the Contract in accordance with the provisions of Sub-Clause 18.1, whereupon the provisions of Sub-Clauses 18.2 and 18.3 shall apply.

9 Tests On Completion

9.1 Contractors obligation

Contractor shall carry out all tests as per requirement of this contract. No additional charges on any such account shall be payable by the Employer.

The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on completion. Unless otherwise agreed, Tests on completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.

In considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Engineer.

9.2 Retesting

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 6.5[Rejection] shall apply, and the Engineer or the Contractor may require the failed Tests, and Tests of Completion on any related work, to be repeated under the same terms and conditions.

9.3 Failure to Remedy Defects

If the Contractor fails to remedy any damage within a reasonable time, a date may be fixed by (or on behalf of) the Employer, on or by which the damage is to be remedied. The Contractor shall be given reasonable notice of this date.

If the Contractor fails to remedy the damage by this notified date and this Remedial work was to be executed at the cost of the Contractor.

(a) carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall pay to the Employer the costs reasonably incurred by the Employer in remedying the damage;

(b) Require ENGINEER / EMPLOYER to agree or determine a reasonable reduction in the Contract Price.

10 Employer's Taking over

10.1 Taking-Over Certificate

When the whole of the Works have been substantially completed and have satisfactorily passed any Tests on Completion prescribed by the Contract, the Contractor may give a notice to that effect to the Engineer, with a copy to the Employer, accompanied by a written undertaking to finish with due expedition any outstanding work during the Defects Liability Period. Such notice and undertaking shall be deemed to be a request by the Contractor for the Engineer to issue a Taking-Over Certificate in respect of the Works. The Engineer shall, within 21 days of the date of delivery of such notice, either issue to the Contractor, with a copy to the Employer, a Taking-Over Certificate, stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract, or give instructions in writing to the Contractor specifying all the work which, in the Engineer's opinion, is required to be done by the Contractor before the issue of such Certificate. The Engineer shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the Works specified therein. The Contractor shall be entitled to receive such Taking-Over Certificate within 21 days of completion, to the satisfaction of the Engineer, of the Works so specified and remedying any defects so notified.

10.2 Taking Over of Sections or Parts

Similarly, in accordance with the procedure set out in Sub-Clause 10.1, the Contractor may request and the Engineer shall issue a Taking-Over Certificate in respect of:

- (a) any Section in respect of which a separate Time for Completion is provided in the SCC,
- (b) any substantial part of the Permanent Works which has been both completed to the satisfaction of the Engineer and, otherwise than as provided for in the Contract, occupied or used by the Employer, or
- (c) any part of the Permanent Works which the Employer has elected to occupy or use prior to completion (where such prior occupation or use is not provided for in the Contract or has not been agreed by the Contractor as a temporary measure).
- (d) Punch list of the rectifications to be issued by the Engineer to the contractor.

10.3 Substantial Completion of Parts

If any part of the Permanent Works has been substantially completed and has satisfactorily passed any Tests on Completion prescribed by the Contract, the Engineer may issue a Taking-Over Certificate in respect of that part of the Permanent Works before completion of the whole of the Works and, upon the issue of such Certificate, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work in that part of the Permanent Works during the Defects Liability Period.

11 Defects Liability

11.1 Defects Liability Period

In these Conditions the expression “Defects Liability Period” shall mean the defects liability period named in the SCC, calculated from:

- (a) the date of completion of the Works certified by the Engineer in accordance with Clause 10, or
 - (b) in the event of more than one certificate having been issued by the Engineer under Clause 10, the respective dates so certified,
- and in relation to the Defects Liability Period the expression “the Works” shall be construed accordingly.

11.2 Completion of Outstanding Work and Remedying Defects

To the intent that the Works shall, at or as soon as practicable after the expiration of the Defects Liability Period, be delivered to the Employer in the condition required by the Contract, fair wear and tear excepted, to the satisfaction of the Engineer, the Contractor shall:

- (a) complete the work, if any, outstanding on the date stated in the Taking Over Certificate as soon as practicable after such date, and
- (b) execute all such work of amendment, reconstruction, and remedying defects, shrinkages or other faults as the Engineer may, during the Defects Liability Period or within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to its expiration, instruct the Contractor to execute.

11.3 Cost of Remedying Defects

All work referred to in Sub-Clause 10.2 (b) shall be executed by the Contractor at his own cost if the necessity thereof is, in the opinion of the Engineer, due to:

- (a) the use of materials, Plant or workmanship not in accordance with the Contract,

- (b) where the Contractor is responsible for the design of part of the Permanent works, any fault in such design, or
- (c) the neglect or failure on the part of the Contractor to comply with any obligation, expressed or implied, on the Contractor's part under the Contract.

11.4 Contractor's Failure to Carry Out Instructions

In case of default on the part of the Contractor in carrying out such instruction within a reasonable time, the Employer shall be entitled to employ and pay other persons to carry out the same and if such work is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

11.5 Contractor to Search

If any defect, shrinkage or other fault in the Works appears at any time prior to the end of the Defects Liability Period, the Engineer may instruct the Contractor, with copy to the Employer, to search under the directions of the Engineer for the cause thereof. Unless such defect, shrinkage or other fault is one for which the Contractor is liable under the Contract, the Engineer shall, after due consultation with the Employer and the Contractor, determine the amount in respect of the costs of such search incurred by the Contractor, which shall be added to the Contract Price and shall notify the Contractor accordingly, with a copy to the Employer. If such defect, shrinkage or other fault is one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case remedy such defect, shrinkage or other fault at his own cost in accordance with the provisions of Clause 11.

11.6 Approval only by Defects Liability Certificate

Only the Defects Liability certificate, referred to in clause 11.7 and 11.8, shall be deemed to constitute final approval of works.

11.7 Defects Liability Certificate

The Contract shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Engineer and delivered to the Employer, with a copy to, the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete the Works and remedy any defects therein to the Engineer's satisfaction. The Defects Liability Certificate shall be given by the Engineer within 28 days after the expiration of the Defects Liability Period, or, if different defects liability periods shall become applicable to different Sections or parts of the Permanent Works, the expiration of the latest such period, or as soon thereafter as any works instructed, pursuant to Clauses 11.1 to 11.5, have been completed to the satisfaction of the Engineer.

11.8 Unfulfilled Obligations

Notwithstanding the issue of the Defects Liability Certificate the Contractor and the Employer shall remain liable for the fulfilment of any obligation incurred under the provisions of the Contract prior to the issue of the Defects Liability Certificate which remains unperformed at the time such Defects Liability Certificate is issued and, for the purposes of determining the

nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract.

12 Measurement & omissions

12.1 Quantities

The quantities set out in the Bill of Quantities are the estimated quantities for the Works, and they are not to be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfilment of his obligations under the Contract.

12.2 Work to be Measured

The Engineer, shall except as otherwise stated, ascertain and determine by measurement the value of the Works in accordance with the Contract and the Contractor shall be paid that value in accordance with Clause 15. The Engineer shall, when he requires any part of the Works to be measured, give reasonable notice to the Contractor's authorised agent, who shall:

- (a) forthwith attend or send a qualified representative to assist the Engineer in making such measurement, and
- (b) supply all particulars required by the Engineer.

Should the Contractor not attend, or neglect or omit to send such representative, then the measurement made by the Engineer or approved by him shall be taken to be the correct measurement of such part of the Works. For the purpose of measuring such Permanent Works as are to be measured by records and drawings, the Engineer shall prepare records and drawings as the work proceeds and the Contractor, as and when called upon to do so in writing, shall, within 14 days, attend to examine and agree such records and drawings with the Engineer and shall sign the same when so agreed. If the Contractor does not attend to examine and agree such records and drawings, they shall be taken to be correct. If, after examination of such records and drawings, the Contractor does not agree the same or does not sign the same as agreed, they shall nevertheless be taken to be correct, unless the Contractor, within 14 days of such examination, lodges with the Engineer notice of the respects in which such records and drawings are claimed by him to be incorrect. On receipt of such notice, the Engineer shall review the records and drawings and either confirm or vary them.

12.3 Method of Measurement

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

12.4 Breakdown of Lump Sum Items

For the purposes of statements submitted in accordance with Sub-Clause 15.1, the Contractor shall submit to the Engineer, within 21 days after the receipt of the Letter of Award, a breakdown for each of the lump sum items contained in the Tender. Such breakdowns shall be subject to the approval of the Engineer.

12.5 Omissions

Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:

- (a) the Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;

- (b) the omission of the work will result (or has resulted) in this sum not forming part of the Contract Price; and
- (c) This cost is not deemed to be included in the evaluation of any substituted work; then the Contractor shall give notice to ENGINEER /

EMPLOYER accordingly, with supporting particulars. Upon receiving this notice, ENGINEER / EMPLOYER shall to agree or determine this cost, which shall be included in the Contract Price.

13 Variations, adjustments and Additions

13.1 Variation

The Engineer shall make any variation of the form, quality or quantity of the Works or any part thereof that may, in his opinion, be necessary and for that purpose, or if for any other reason it shall, in his opinion, be appropriate, he shall have the authority to instruct the Contractor to do and the Contractor shall do any of the following:

- (a) increase or decrease the quantity of any work included in the Contract,
- (b) omit any such work (but not if the omitted work is to be carried out by the Employer or by another contractor),
- (c) change the character or quality or kind of any such work,
- (d) change the levels, lines, position and dimensions of any part of the Works,
- (e) execute additional work of any kind necessary for the completion of the Works, or
- (f) change any specified sequence or timing of construction of any part of the Works.

No such variation shall in any way vitiate or invalidate the Contract, but the effect, if any, of all such variations shall be valued in accordance with Clause 13.3, 13.4 and 13.5. Provided that where the issue of an instruction to vary the Works is necessitated by some default or breach of contract by the Contractor or for which he is responsible, any additional cost attributable to such default shall be borne by the Contractor.

13.2 Instructions for Variations

The Contractor shall not make any such variation without an instruction of the Engineer.

13.3 Valuation of Variations

All variations referred to in Clause 13.1 & 13.2 and any additions to the Contract Price which are required to be determined in accordance with Clause 13.3, 13.4 and 13.5 (for the purposes of this Clause referred to as “varied work”), shall be valued at the rates and prices set out in the Contract if, in the opinion of the Engineer, the same shall be applicable. If the Contract contain any rates or prices applicable to the varied work, the rates and prices in the Contract shall be used as the basis for valuation so far as may be reasonable, failing which, after due consultation by the Engineer with the Employer and the Contractor, suitable rates or prices shall be agreed upon between the Engineer and the Contractor. In the event of disagreement the Engineer shall fix such rates or prices as are, in his opinion, appropriate and shall notify the Contractor accordingly, with a copy to the Employer. Until such time as rates or prices are agreed or fixed, the Engineer shall determine provisional rates or prices to enable on-account payments to be included in certificates issued in accordance with Clause 15.

13.4 Deleted

13.5 Variations upto +/- 20% shall be contractor's liability .The payment shall be released as per actual dredging quantity executed

14 Certificates and Payment

14.1 Monthly Statements

The Contractor shall submit to the Engineer after the end of each month six copies, each signed by the Contractor's representative approved by the Engineer in accordance with Sub-Clause 4.10, of a statement, in such form as the Engineer may from time to time prescribe, showing the amounts expressed in Indian Rupees, to which the Contractor considers himself to be entitled up to the end of the month in respect of:

- (a) The value of the Works executed with reference to the contract
- (b) Any other items in the Bill of Quantities.
- (c) the percentage of the invoice value of listed materials, all as stated in the SCC, and Plant delivered by the Contractor on the Site for incorporation in the Permanent Works but not incorporated in such Works,
- (d) Adjustments under Clause 23, and
- (e) Any other sum to which the Contractor may be entitled under the Contract or otherwise.

14.2 Monthly Payments

The Engineer shall, within 28 days of receiving such statement, deliver to the Employer an Interim Payment Certificate stating the amount of payment to the Contractor which the Engineer considers due and payable in respect of such statement, subject:

- (a) firstly, to the retention of the amount calculated by applying the Percentage of Retention stated in the SCC, to the amount to which the Contractor is entitled under paragraphs (a), (b), (c) and (e) of Sub-Clause 15.1 until the amount so retained reaches the Limit of Retention Money stated in the SCC, and
- (b) secondly, to the deduction, other than pursuant to Clause 8.12 and 8.13, of any sums which may have become due and payable by the Contractor to the Employer.

Provided that the Engineer shall not be bound to certify any payment under this Sub-Clause if the net amount thereof, after all retentions and deductions, would be less than the Minimum Amount of Interim Payment Certificates stated in the SCC.

Notwithstanding the terms of this Clause or any other Clause of the Contract no amount will be certified by the Engineer for payment until the performance security, if required under the Contract, has been provided by the Contractor and approved by the Employer.

14.3 Place of Payment

Payments to the Contractor by the Employer shall be made in the currencies in which the Contract Price is payable into a bank account or accounts nominated by the Contractor in the country of the Employer.

14.4 Deleted

14.5 Deleted

14.6 Correction of Certificates

The Engineer may by any Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate which shall have been issued by him and shall have authority, if any work is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

14.7 Statement at Completion

Not later than 30 days after the issue of the Taking-Over Certificate in respect of the whole of the Works, the Contractor shall submit to the Engineer six copies of Statement at Completion with supporting documents showing in detail, in the form approved by the Engineer:

- (a) the final value of all work done, in Indian Rupees, in accordance with the Contract up to the date stated in such Taking-Over Certificate,
- (b) any further sums which the Contractor considers to be due, and
- (c) an estimate of amounts which the Contractor considers will become due to him under the Contract.

The estimated amounts shall be shown separately in such Statement at Completion. The Engineer shall certify payment in accordance with Sub-Clause 15.2.

14.8 Final Statement

Not later than 30 days after the issue of the Defects Liability Certificate pursuant to Sub-Clause 11.7, the Contractor shall submit to the Engineer for consideration six copies of a draft final statement with supporting documents showing in detail, in the form approved by the Engineer:

- (a) the value of all work done in accordance with the Contract, and
- (b) any further sums which the Contractor considers to be due to him under the Contract or otherwise.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed (for the purposes of these Conditions referred to as the “Final Statement”).

If, following discussions between the Engineer and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the Engineer shall deliver to the Employer an Interim Payment Certificate for those parts of the draft final statement, if any, which are not in dispute. The dispute may then be settled in accordance with Clause 16.3.

14.9 Discharge

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment due under the Final Payment Certificate issued pursuant to Sub-Clause 15.10 has been made and the performance security referred to in Sub-Clause 4.4, if any, has been returned to the Contractor.

14.10 Final Payment Certificate

Within 14 days after receipt of the Final Statement, and the written discharge, the Engineer shall issue to the Employer (with a copy to the Contractor) a Final Payment Certificate stating:

- (a) the amount which, in the opinion of the Engineer, is finally due under the Contract or otherwise, and
- (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled other than under Clause 8.12 and 8.13, the balance, if any, due from the Employer to the Contractor or from the Contractor to the Employer as the case may be.

14.11 Cessation of Employer's Liability

The Employer shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or execution of the Works, unless the Contractor shall have included a claim in respect thereof in his Final Statement and (except in respect of matters or things arising after the issue of the Taking-Over Certificate in respect of the whole of the Works) in the Statement at Completion referred to in Sub-Clause 15.7.

14.12 Time for Payment

The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other term of the Contract, shall, subject to Clause 8.12 and 8.13, be paid by the Employer to the Contractor within 28 days after such Interim Payment Certificate has been delivered to the Employer, or, in the case of the Final Payment Certificate referred to in Sub-Clause 15.8, within 60 days, after such Final Payment Certificate has been delivered to the Employer..

14.13 Advance Payment

The Contractor shall be eligible to receive an advance payment for an amount stated in the SCC. Payment of such advance amount will be due under certification by the Engineer after (a) execution of the Form of Agreement by the parties hereto; (b) provision by the Contractor of the performance security in accordance with Sub-Clause 4.4; and (c) provision by the Contractor of an unconditional bank guarantee for equal amount in a form and by a bank acceptable to the Employer. Such bank guarantee shall remain effective until the advance payment has been repaid pursuant to the paragraph below, but the amount thereof shall be progressively reduced by the amount repaid by the Contractor as indicated in Interim Payment Certificates issued in accordance with this clause.

The advance payment shall be repaid through percentage deductions from the interim payments certified by the Engineer in accordance with this clause. Deductions shall commence in the next Interim Payment Certificate following that in which the total of all interim payments certified to the Contractor has reached the percentage of the Contract Price stipulated in the SCC less Provisional Sums, if any, and shall be made at the rate stated in the SCC of the amount of all Interim Payment Certificates until such time as the advance payment has been repaid; always provided that the advance payment shall be completely repaid prior to the time when 80 percent of the Contract Price has been certified for payment.

15 Claims, provisional sum and Settlement of disputes

15.1 Claims

16.1.1 Notice of Claims

Notwithstanding any other provision of the Contract, if the Contractor intends to claim any additional payment pursuant to any Clause of these Conditions or otherwise, he shall give notice of his intention to the Engineer, with a copy to the Employer, within 28 days after the event giving rise to the claim has first arisen.

16.1.2 Contemporary Records

Upon the happening of the event referred to in Sub-Clause 16.1.1, the Contractor shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make. Without necessarily admitting the Employer's liability, the Engineer shall, on receipt of a notice under Sub-Clause 16.1.1, inspect such contemporary records and may instruct the Contractor to keep any further contemporary records as are reasonable and may be material to the claim of which notice has been given. The Contractor shall permit the Engineer to inspect all records kept pursuant to this Sub-Clause and shall supply him with copies thereof as and when the Engineer so instructs.

16.1.3 Substantiation of Claims

Within 28 days, or such other reasonable time as may be agreed by the Engineer, of giving notice under Sub-Clause 16.1.1, the Contractor shall send to the Engineer an account giving detailed particulars of the amount claimed and the grounds upon which the claim is based. Where the event giving rise to the claim has a continuing effect, such account shall be considered to be an interim account and the Contractor shall, at such intervals as the Engineer may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. In cases where interim accounts are sent to the Engineer, the Contractor shall send a final account within 28 days of the end of the effects resulting from the event. The Contractor shall, if required by the Engineer so to do, copy to the Employer all accounts sent to the Engineer pursuant to this Sub-Clause.

16.1.4 Failure to Comply

If the Contractor fails to comply with any of the provisions of this Clause in respect of any claim which he seeks to make, his entitlement to payment in respect thereof shall not exceed such amount as the Engineer or any arbitrator or arbitrators appointed pursuant to Sub-Clause 16.3.3 assessing the claim considers to be verified by contemporary records (whether or not such records were brought to the Engineer's notice as required under Sub-Clauses 16.1.2 and 16.1.3).

15.2 **16.1.5** Provisional Sums

16.2.1 Definition of "Provisional Sum"

"Provisional Sum" means a sum included in the Contract and so designated in the Bill of Quantities for the execution of any part of the Works or for the supply of goods, materials, Plant or services, or for contingencies, which sum may be used, in whole or in part, or not at all, on the instructions of the Engineer. The Contractor shall be entitled to only such amounts in respect of the work, supply or contingencies to which such Provisional Sums relate as the Engineer shall determine in accordance with this Clause. The Engineer shall notify the Contractor of any determination made under this Sub-Clause, with a copy to the Employer.

16.2.2 Use of Provisional Sums

In respect of every Provisional Sum the Engineer shall have authority to issue instructions for the execution of work or for the supply of goods, materials, Plant, Labour or services by:

- (a) the Contractor, in which case the Contractor shall be entitled to an amount equal to the value thereof determined in accordance with Clause 13.3, 13.4 and 13.5, and
- (b) a nominated Subcontractor, as hereinafter defined, in which case the sum to be paid to the Contractor therefor shall be determined and paid in accordance with Sub-Clause 5.4.4.

16.2.3 Production of Vouchers

The Contractor shall produce to the Engineer all quotations, invoices, vouchers and accounts or receipts in connection with expenditure in respect of Provisional Sums, except where work is valued in accordance with rates or prices set out in the Tender.

15.3 Settlement of Disputes

16.3.1 Engineer's Decision

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

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

If either the Employer or the Contractor be dissatisfied with any decision of the Engineer, or if the Engineer fails to give notice of his decision on or before the 30th day after the day on which he received the reference, then either the Employer or the Contractor may, on or before the seventieth day after the day on which he received notice of such decision, or on or before the seventieth day after the day on which the said period of 30 days expired, as the case may be, give notice to the other party, with a copy for information to the Engineer, of his intention to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to Sub-Clause 16.3.4, no arbitration in respect thereof may be commenced unless such notice is given.

If the Engineer has given notice of his decision as to a matter in dispute to the Employer and the Contractor and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor on or before the

day specified hereabove, the said decision shall become final and binding upon the Employer and the Contractor.

16.3.2 Amicable Settlement

Where notice of intention to commence arbitration as to a dispute has been given in accordance with Sub-Clause 16.3.1, the parties shall attempt to settle such dispute amicably before the commencement of arbitration. Provided that, unless the parties otherwise agree, arbitration may be commenced on or after the 28th day after the day on which notice of intention to commence arbitration of such dispute was given, even if no attempt at amicable settlement thereof has been made.

16.3.3 Arbitration

Any dispute in respect of which:

- (a) the decision, if any, of the Engineer has not become final and binding pursuant to Sub-Clause 16.3.1, and
- (b) amicable settlement has not been reached within the period stated in Sub-Clause 16.3.2, shall be referred for arbitration in the manner provided as under and to the sole arbitrator appointed as follows:
 - (i) Either of the parties may give to the other notice in writing of the existence of such question of dispute or difference with a copy to the Engineer within the time specified in clause 16.3.1.
 - (ii) Within twenty eight (28) days of receipt of such notice from either party the Engineer in Consultation with the Employer shall send to the contractor a panel of three persons and the contractor within twenty one (21) days of receipt of such panel communicate to the Engineer and Employer the name of one of the persons from such panel and such person shall then be appointed a sole arbitrator by the Employer. However, the arbitrator so appointed shall not be an officer or the employee of the Employer or Engineer.
 - (iii) Provided that if the contractor fails to communicate the selection of a name out of the panel so forwarded to him within the specified time, Employer shall without delay select one person from the aforesaid panel and appoint him as the sole arbitrator.
 - (iv) The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason, then the Employer shall appoint another person to act as sole arbitrator, such person shall be entitled to proceed with the reference from the stage at which the predecessor left it.
 - (v) The award of the arbitrator shall be final and binding. The arbitrator shall decide in what proportion the arbitrator's fees, as well as the cost of Arbitration proceeding shall be borne by either party.
 - (vi) The arbitrator with the consent of the parties can enlarge the time, from time to time to make and publish his award.
 - (vii) A notice of the existence in question dispute or difference in connection with the contract unless served by either party within 30 days after the issue of Defects Liability Certificate, failing which all rights and claim under this contract shall be deemed to have been waived and thus forfeited and absolutely barred.

- (viii) Where the amount of claim is Rs.1,00,000 (Rs. One lakh only) and above the arbitrator shall give reasons for the award for each item of Rs 75,000 (Rs. Seventy Five Thousand only) and more.
- (ix) The work under this contract shall continue during arbitration proceedings and no valid payments due from or payment by the Employer shall be withheld on account of such proceedings except to the extent, which may be in dispute.
- (x) The arbitration and conciliation act 1996 together with any statutory modifications or re-enactment thereof and the rules made there under for being in force shall apply to the arbitration proceeding under this clause.

The Arbitrator shall have the power to enlarge the term to rate the award with the consent of the parties provided always that the commencement or continuation of the arbitration proceeding shall not result in cessation or suspension of any of other rights and obligations of the parties of any payments due to them hereunder.

The venue of the arbitration proceedings shall be at Delhi/NCR. It is further clarified that both the parties to this agreement hereby undertake not to have recourse to civil court to solve any of their dispute whatsoever, arising out of this agreement except through arbitration.

16.3.4 Laws governing the Contract

- i) The laws of India shall govern this contract.
- ii) Irrespective of the place of Works, the place of performance or place of payment under the contract, the contract shall be deemed to have been made at the place from which the Letter of Award has been issued.
 - i) Courts of the place from where the Letter of Award of tender has been issued shall alone have jurisdiction to decide any dispute arising out of or in respect of contract.

16.3.5 Failure to Comply with Engineer's Decision

Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in Sub-Clause 16.3.1 and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration in accordance with Sub-Clause 16.3.2. The provisions of Sub-Clauses 16.3.1 and 16.3.2 shall not apply to any such reference.

16 Termination by the Employer

16.1 Default of Contractor

If the Contractor is deemed by law unable to pay his debts as they fall due, or enters into voluntary or involuntary bankruptcy, liquidation or dissolution (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), or becomes insolvent, or makes an arrangement with, or assignment in favour of, his creditors, or agrees to carry out the Contract under a committee of inspection of his creditors, or if a receiver, administrator, trustee or liquidator is appointed over any substantial part of his assets, or if, under any law or regulation relating to reorganization, arrangement or readjustment of debts, proceedings are commenced against the Contractor or resolutions passed in connection with dissolution or liquidation or if any steps are taken to enforce any security interest over a substantial part of

the assets of the Contractor, or if any act is done or event occurs with respect to the Contractor or his assets which, under any applicable law has a substantially similar effect to any of the foregoing acts or events, or if the Contractor has contravened Sub-Clause 5.1, or has an execution levied on his goods, or if the Engineer certifies to the Employer, with a copy to the Contractor, that, in his opinion, the Contractor:

- (a) has repudiated the Contract,
- (b) without reasonable excuse has failed
 - (i) to commence the Works in accordance with Sub-Clause 8.1 or
 - (ii) to proceed with the Works, or any Section thereof, within 28 days after receiving notice pursuant to Sub-Clause 8.11,
- (c) has failed to comply with a notice issued pursuant to Sub-Clause 7.9 or an instruction issued pursuant to Sub-Clause 7.13 within 28 days after having received it,
- (d) despite previous warning from the Engineer, in writing, is otherwise persistently or flagrantly neglecting to comply with any of his obligations under the Contract, or
- (e) has contravened Sub-Clause 5.2,

then the Employer may, after giving 14 days' notice to the Contractor, enter upon the Site and expel the Contractor there from without thereby violating the Contract, or releasing the Contractor from any of his obligations or liabilities under the Contract, or affecting the rights and powers conferred on the Employer or the Engineer by the Contract, and may himself complete the Works or may employ any other contractor to complete the Works. The Employer or such other contractor may use for such completion so much of the Contractor's Equipment, Plant, Temporary Works, and materials, which have been deemed to be reserved exclusively for the execution of the Works, under the provisions of the Contract, as he or they may think proper, and the Employer may, at any time, sell any of the said Contractor's Equipment, Temporary Works, and unused Plant and materials, and apply the proceeds of sale in or toward the satisfaction of any sums due or that may become due to him from the Contractor under the Contract.

16.2 Valuation at Date of Expulsion

The Engineer shall, as soon as may be practicable after any such entry and expulsion by the Employer, fix and determine ex parte, or by or after reference to the parties or after such investigation or enquiries as he may think fit to make or institute, and shall certify:

- a) what amount (if any) had, at the time of such entry and expulsion, been reasonably earned by or would reasonably accrue to the Contractor in respect of work then actually done by him under the Contract, and
- (b) the value of any of the said unused or partially used materials, any Contractor's Equipment and any Temporary Works.

16.3 Payment after Expulsion

If the Employer shall enter and expel the Contractor under this Clause, he shall not be liable to pay to the Contractor any further amount (including damages) in respect of the Contract until the expiration of the Defects Liability Period and thereafter until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any) and all other expenses incurred by the Employer have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum (if

any) as the Engineer may certify would have been payable to him upon due completion by him after deducting the said amount. If such amount exceeds the sum which would have been payable to the Contractor on due completion by him, then the Contractor shall, upon demand, pay to the Employer the amount of such excess and it shall be deemed a debt due by the Contractor to the Employer and shall be recoverable accordingly.

16.4 Assignment of Benefit of Agreement

Unless prohibited by law, the Contractor shall, if so instructed by the Engineer within 14 days of such entry and expulsion referred to in Sub-Clause 17.1, assign to the Employer the benefit of any agreement for the supply of any goods materials or services and/or for the execution of any work for the purposes of the Contract, which the Contractor may have entered into.

16.5 Corrupt or Fraudulent Practices

If in the judgment of the Employer the Contractor has engaged in corrupt or fraudulent practices, in competing for or in executing the Contract, then the Employer may, after having given 14 days' notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of Clause 17 shall apply as if such expulsion had been made under Sub-Clause 17.1.

"Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official, Employer, Engineer or their representatives in the procurement process or in Contract execution.

"Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a Contract to the detriment of the Borrower, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

16.6 Urgent Remedial Work

If, by reason of any accident, or failure, or other event occurring to, in, or in connection with the Works, or any part thereof, either during the execution of the Works, or during the Defects Liability Period, any remedial or other work is, in the opinion of the Engineer, urgently necessary for the safety of the Works and the Contractor is unable or unwilling at once to do such work, the Employer shall be entitled to employ and pay other persons to carry out such work as the Engineer may consider necessary. If the work or repair so done by the Employer is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof.

17 Termination by Contractor

17.1 Default of Employer

In the event of the Employer:

- (a) Failing to pay to the Contractor the amount due under any certificate of the Engineer within 28 days after the expiry of the time stated in Sub-Clause 15.12, within which

payment is to be made, subject to any deduction that the Employer is entitled to make under the Contract,

- (b) Interfering with or obstructing or refusing any required approval to the issue of any such certificate,
- (c) becoming bankrupt or, being a company, going into liquidation, other than for the purpose of a scheme of reconstruction or amalgamation, or
- (d) giving notice to the Contractor that for unforeseen economic reasons it is impossible for him to continue to meet his contractual obligations, the Contractor shall be entitled to terminate his employment under the Contract by giving notice to the Employer, with a copy to the Engineer. Such termination shall take effect 14 days after the giving of the notice.

17.2 Removal of Contractor's Equipment

Upon the expiry of the 14 days' notice referred to in Sub-Clause 18.1, the Contractor shall, notwithstanding the provisions of Sub-Clause 4.36.1, with all reasonable despatch, remove from the Site all Contractor's Equipment brought by him thereon.

17.3 Payment on Termination

In the event of such termination, the Employer shall be under the same obligations to the Contractor in regard to payment as if the Contract had been terminated under the provisions of Clause 14.

17.4 Contractor's Entitlement to Suspend Work

Without prejudice to the Contractor's entitlement to interest under Sub-Clause 15.12 and to terminate under Sub-Clause 18.1, the Contractor may, if the Employer fails to pay the Contractor the amount due under any certificate of the Engineer within 28 days after the expiry of the time stated in Sub-Clause 15.12 within which payment is to be made, subject to any deduction that the Employer is entitled to make under the Contract, after giving 28 days' prior notice to the Employer, with a copy to the Engineer, suspend work or reduce the rate of work. If the Contractor suspends work or reduces the rate of work in accordance with the provisions of this Sub-Clause and thereby suffers delay or incurs costs the Engineer shall, after due consultation with the Employer and the Contractor, determine:

- (a) Any extension of time to which the Contractor is entitled under sub clause 8.7, 8.7 and 8.8 of clause 8, and

18 Design and drawings

18.1 Custody and Supply of Drawings and Documents

The approved drawings shall remain in the custody of the Engineer, but two copies thereof shall be provided to the Contractor free of charge. The Contractor shall make at his own cost any further copies required by him. Unless it is strictly necessary for the purposes of the Contract, the Drawings, Specification and other documents provided by the Employer or the Engineer shall not, without the consent of the Engineer, be used or communicated to a third party by the Contractor. Upon issue of the Defects Liability Certificate, the Contractor shall return to the Engineer all Drawings, Specification and other documents provided under the Contract.

The Contractor shall supply to the Engineer four copies of all Drawings, Specification and other documents submitted by the Contractor and approved by the Engineer in accordance with Clause 19.6, 19.7 and 19.8, together with a reproducible copy of any material which cannot be reproduced to an equal standard by photocopying. In addition the Contractor shall supply such reasonable number of further copies of such Drawings, Specification and other documents as the Engineer may request in writing.

18.2 One Copy of Drawings to be kept on Site

One copy of the Drawings, provided to or supplied by the Contractor as aforesaid, shall be kept by the Contractor on the Site and the same shall at all reasonable times be available for inspection and use by the Engineer and by any other person authorised by the Engineer in writing.

18.3 Disruption of Progress

The Contractor shall give notice to the Engineer, with a copy to the Employer, whenever planning or execution of the Works is likely to be delayed or disrupted unless any further drawing or instruction is issued by the Engineer within a reasonable time. The notice shall include details of the drawing or instruction required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late. This shall not be applicable in the case of permanent works to be designed and engineered by the contractor, except with regard to its approval by the Engineer, if specified.

18.4 Delays and Cost of Delay of Drawings

If, by reason of any failure or inability of the Engineer to issue, within a time reasonable in all the circumstances, any drawing or instruction for which notice has been given by the Contractor in accordance with Sub Clause 19.3, the Contractor suffers delay and/or incurs costs then the Engineer shall, after due consultation with the Employer and the Contractor, determine:

- (a) any extension of time to which the Contractor is entitled under sub clause 8.6, 8.7 and 8.8, and

18.5 Failure by Contractor to Submit Drawings

If the failure or inability of the Engineer to issue any drawings or instructions is caused in whole or in part by the failure of the Contractor to submit Design, Drawings, Specification or other documents which he is required to submit under the Contract, the Engineer shall take such failure by the Contractor into account when making his determination pursuant to Sub-Clause 19.4.

18.6 Supplementary Drawings and Instructions

The Engineer shall have authority to issue to the Contractor, from time to time, such supplementary Drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and completion of the Works and the remedying of any defects therein. The Contractor shall carry out and be bound by the same.

18.7 Permanent Works Designed by Contractor

Where the Contract expressly provides that part of the Permanent Works shall be designed by the Contractor, he shall submit to the Engineer, for approval:

- (a) such drawings, specifications, calculations and other information as shall be necessary to satisfy the Engineer as to the suitability and adequacy of that design, and

- (b) operation and maintenance manuals together with drawings of the Permanent Works as completed, in sufficient detail to enable the Employer to operate, maintain, dismantle, reassemble and adjust the Permanent Works incorporating that design. The Works shall not be considered to be completed for the purposes of taking over in accordance with Clause 48 until such operation and maintenance manuals, together with drawings on completion, have been submitted to and approved by the Engineer

18.8 Responsibility Unaffected by Approval

Approval by the Engineer, in accordance with Sub-Clause 19.7, shall not relieve the Contractor of any of his responsibilities under the Contract.

19 Insurance

19.1 Insurance of Contractor's Equipment, Plant and materials.

The Contractor shall, without limiting his or the Employer's obligations and responsibilities under Clause 2.2, 4.16, 4.17 and 4.18, insure:

- (a) the Materials and Plant for incorporation therein in the Works, to their full replacement cost at Site. Such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred,
- (b) an additional sum of 10 per cent of such replacement cost, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature. Such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred and
- (c) the Contractor's Equipment and other things brought onto the Site by the Contractor, for a sum sufficient to provide for their replacement at the Site.

19.2 Scope of Cover

The insurance in paragraphs (a) and (b) of Sub-Clause 20.1 shall be in the joint names of the Contractor and the Employer and shall cover:

- (a) the Employer and the Contractor against all loss or damage from whatsoever cause arising, other than as provided in Sub-Clause 20.4, from the first working day after the Commencement Date until the date of issue of the relevant Taking-Over Certificate in respect of the Works or any Section or part thereof as the case may be, and
- (b) the Contractor for his liability:
 - (i) during the Defects Liability Period for loss or damage arising from a cause occurring prior to the commencement of the Defects Liability Period, and
 - (ii) for loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Clause 11.
- (c) It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract.

19.3 Damage to Persons and Property

The Contractor shall, except if and so far as the Contract provides otherwise, indemnify the Employer against all losses and claims in respect of:

- (a) death of or injury to any person, or
- 19.4 (b) loss of or damage to any property (other than the Works), which may arise out of or in consequence of the execution and completion of the Works and the remedying of any defects therein, and against all claims, proceedings, damages, costs, charges and expenses Third Party Insurance (including Employer's Property)

The Contractor shall, without limiting his or the Employer's obligations and responsibilities under Clause 20.5, 20.6 and 20.7, insure, in the joint names of the Contractor and the Employer, against liabilities for death of or injury to any person (other than as provided in Clause 20.11 and 20.12) or loss of or damage to any property (other than the Works) arising out of the performance of the Contract, other than the exceptions defined in paragraphs (a), (b) and (c) of Sub-Clause 20.6.

19.5 Minimum Amount of insurance

Such insurance shall be for at least the amount stated in the SCC.

19.6 Cross Liabilities

The insurance policy shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Employer as separate insured.

19.7 Accident or Injury to Workmen

The Employer shall not be liable for in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or any Subcontractor, other than death or injury resulting from any act or default of the Employer, his agents or servants. The Contractor shall indemnify and keep indemnified the Employer against all such damages and compensation, other than those for which the Employer is liable as aforesaid, and against all claims, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

19.8 Insurance Against Accident to Workmen

The Contractor shall insure against such liability and shall continue such insurance during the whole of the currency of Contract in respect of all and any persons as are employed by him on the Works. Provided that, in respect of any persons employed by any Subcontractor, the Contractor's obligations to insure as aforesaid under this Sub-Clause shall be satisfied if the Subcontractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy, but the Contractor shall require such Subcontractor to produce to the Employer, when required, such policy of insurance and the receipt for the payment of the current premium.

19.9 Evidence and Terms of Insurances

The Contractor shall provide evidence to the Employer before starting the work after the respective insurances have been taken out but in any case prior to the start of work at the Site that the insurances required under the Contract have been effected and shall, within 84 days of the Commencement Date, provide the insurance policies to the Employer. When providing such evidence and such policies to the Employer, the Contractor shall notify the Engineer of so doing. Such insurance policies shall be consistent with the general terms agreed prior to the

issue of the Letter of Award. The Contractor shall effect all insurances for which he is responsible with insurers and in terms approved by the Employer.

19.10 Adequacy of Insurances

The Contractor shall notify the insurers of changes in the nature, extent or programme for the execution of the Works and ensure the adequacy of the insurances at all times in accordance with the terms of the Contract and shall, when required, produce to the Employer the insurance policies in force and the receipts for payment of the current premiums.

19.11 Remedy on Contractor's Failure to Insure

If the Contractor fails to effect and keep in force any of the insurances required under the Contract, or fails to provide the policies to the Employer within the period required by Sub-Clause 20.13, then and in any such case the Employer may effect and keep in force any such insurances and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Contractor, or recover the same as a debt due from the Contractor.

19.12 Compliance with Policy Conditions

In the event that the Contractor or the Employer fails to comply with conditions imposed by the insurance policies effected pursuant to the Contract, each shall indemnify the other against all losses and claims arising from such failure.

19.13 Source of Insurance

The Contractor shall to place all insurance relating to the Contract (including, but not limited to, the insurance referred to in Clauses 20) with insurers from India.

20 Release From Performance

Payment in Event of Release from Performance

If any circumstance outside the control of both parties arises after the issue of the Letter of Award which renders it impossible or unlawful for either or both parties to fulfil his or their contractual obligations, or under the law governing the Contract the parties are released from further performance, then the parties shall be discharged from the Contract, except as to their rights under this Clause and Clause 16.3 and without prejudice to the rights of either party in respect of any antecedent breach of the Contract, and the sum payable by the Employer to the Contractor in respect of the work executed shall be the same as that which would have been payable under Clause 14 if the Contract had been terminated under the provisions of Clause 14.

21 Notices

21.1 Notice to Contractor

All certificates, notices or instructions to be given to the Contractor by the Employer or the Engineer under the terms of the Contract shall be sent by post, cable, e-mail or facsimile transmission to or left at the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose.

21.2 Notice to Employer and Engineer

Any notice to be given to the Employer or to the Engineer under the terms of the Contract shall be sent by post, cable, e-mail or facsimile transmission to or left at the respective addresses nominated for that purpose.

21.3 Change of Address

Either party may change a nominated address to another address in the country where the Works are being executed or in the country of Employer by prior notice to the other party, with a copy to the Engineer, and the Engineer may do so by prior notice to both parties.

22 Changes in Cost and Legislation

22.1 Increase or Decrease of Cost

There shall be no addition or deduction from the Contract Price any sums in respect of rise or fall in the cost of labour and/or materials or any other matters affecting the cost of the execution of the Works as far as the items of Works covered by EPC criteria is concerned. However, addition or deduction from the Contract Price any sums in respect of rise or fall in the cost of POL may be determined as defined in SCC.

The contract price will be subjected to adjustment on account of variation of price of diesel more than 10% of the price prevailing on the date of opening of the bid according to the formula given below:

$$V = \frac{((P-P_o) \times R \times Q)}{P_o}$$

Where,

V - Variation in Price on account of diesel during the month under consideration.

P_o - Price of diesel at Site / nearby areas, at the time of opening of the tender.

P - Price of diesel for the month under consideration.

Q - Diesel element factor in the unit rate which should be 0.30

R - Value of the work during the month under consideration as per relevant item of Bill of Quantities.

However, the escalation applicable for diesel will be given to the contractor based on the log books provided by the contractor for the particular month and the same shall be verified by the EIC.

No escalation on any other account will be payable by the IWAI and the rate should be quoted accordingly.

22.2 Subsequent Legislation

If, after the date 28 days prior to the latest date for submission of tenders for the Contract there occur in the country in which the Works are being or are to be executed changes to any National or State Statute, Ordinance, Decree or other Law or any regulation or bye-law of any local or other duly constituted authority, or the introduction of any such State Statute, Ordinance, Decree, Law, regulation or bye-law which causes additional or reduced cost to the Contractor, other than under Sub-Clause 23.1, in the execution of the Contract, such additional or reduced cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price-and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

23 Deleted

24 Deleted

25 Deleted

26 FORCE MAJEURE

26.1 The Contractor shall not be liable for forfeiture of their Security Deposit, Liquidated damages or Termination for default, if and to the extent that, their delay in performance or other failure to perform their obligations under the Contract is the result of an event of Force Majeure.

26.2 For purposes of this clause, “Force Majeure” means an event beyond the control of the Contractor and not involving the Contractor's fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the ACCEPTING AUTHORITY either in their sovereign or contractual capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

26.3 If a Force Majeure situation arises, the Contractor shall promptly notify the Client in writing of such conditions and the cause thereof. Unless otherwise directed by the Client in writing, the Contractor shall continue to perform their obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

SECTION-V

SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract shall be read in conjunction with the General Conditions of Contract. Whenever there is a conflict, the provision herein shall prevail over those in the General Conditions of Contract.

1.0 Deleted

2.0 DELIVERY DOCUMENTS

The delivery documents shall include:

- a) Insurance policy as specified in clause 3 (Special Conditions of Contract);
- b) Excise gate pass/octroi receipts, wherever applicable, duly sealed indicating payments made; and
- c) Any other document evidencing payment of statutory levies.
- d) Certificate/ License as required from various Government authorities.

3.0 INSURANCE

- 3.1 The Contractor shall take third party insurance for the materials and labour employed at the site. The insurance policy shall cover all The materials on “all Risks” basis including War Risks, Riots and Strike clauses during the whole period till commissioning.

4.0 PAYMENT

Unless agreed otherwise by the client, the terms of payment for this Contract shall be as follows:

4.1 PAYMENT OF MOBILIZATION ADVANCE

- 4.1.1 A lump-sum advance not exceeding 10% of the contract Sum against a bank guarantee from a Nationalized Bank acceptable to Client will be paid. The lump sum advance so paid will carry interest @ 12% per annum. The advance shall be utilized for the purposes of this Contract only and for no other purpose. Mobilization advance shall be recovered in 4 equal installments from 1st RA bill.

- 4.1.2 Deleted.

4.1.3 Payment

The total Contract Price payable under the Contract shall be stipulated in the Letter of Award and thereupon shall become part of this Contract and be paid in accordance with the terms hereon.

- a. Payment for Dredging Works along the waterway for fairway development.
- b. Providing Navigational Aids along the waterway.

Total Contract Price shall be firm and fixed and shall not be subject to any escalation during the period of the Contract except for any adjustment in accordance with the terms of the Contract. However, escalation for diesel, based on the price indices and as stipulated in Contract Agreement is permissible.

The Contractor shall submit monthly Running Account Bills (RA Bills) on or before the dates fixed by Engineer-In-Charge (EIC) for the quantity and or work executed for the month. The Contractor shall be paid monthly as per the RA Bills submitted for the quantity dredged.

The Contractor shall after supplying and completing the installation of Navigational Aids, submit a bill for amount as quoted in bid. The Employer shall pay to the Contractor, for installation of Navigational Aids after physical verification and certification by Engineer-in-Charge

The Contractor shall submit the compiled daily dredging log certified by EIC, along with the monthly RA bill for payment. The daily log shall contain the following information:

- Date of Dredging.
- Dredge Area.
- Start and stop timings of dredging operation.
- Dredging done (in terms of quantity)

4.2 PAYMENT ON ACCOUNT

4.2.1 Interim bills shall be submitted by the Contractor at monthly intervals. The Engineer-in-Charge shall then arrange to have the bill verified by taking or causing to be taken where necessary, the requisite measurements of the work.

4.2.2 Payment on account for amount admissible shall be made on the Engineer-in-Charge certifying the sum to which the Contractor is considered entitled by way of interim payment for the following.

(a) All work executed, after deducting there from the amounts already paid, the security deposit, statutory deductions and such other amounts as may be deductible or recoverable in terms of the Contract:

4.2.3 The amount admissible for interim bills shall be normally paid within a month from the date of receipt of the bill by the Engineer-in-Charge and the payment will be after such verification as is considered necessary.

4.2.4 Any interim certificate given relating to work done or materials delivered, may be modified or corrected by any subsequent interim certificate or by the final certificate. No certificate of the Engineer-in-Charge supporting an interim payment shall of itself be conclusive evidence that any work or materials to which it relates is/are in accordance with the contract.

- 4.2.5 Pending consideration of extension of date of completion, interim payments shall continue to be made as herein provided.
- 4.2.6 Deleted.
- 4.2.7 All statutory deductions as applicable such as TDS shall be made from each bill before settlement.

5 RESOLUTION OF DISPUTES

- 5.1 Subject to the provisions of the relevant clause in General Conditions of Contract, any dispute or differences that could not be resolved shall be settled in a court of law having jurisdiction in Noida, after duly complying all legal procedures applicable.

6 SUFFICIENCY OF TENDER

- 6.1 The intending Contractors shall be deemed to have studied the Tender papers, studied the site conditions, availability of labour, transportation problems, unloading procedures, if any, and the locality of the work, facilities available and has taken into account all aspects affecting the work before submitting the Tender.

7 PROGRAMME OF DESIGN, DREDGING AND RECLAMATION

- 7.1 The Contractor shall submit to the client along with the bid for their approval a comprehensive programme in the form of PERT network/Bar chart or any other form as may be required by the client showing the sequence of order in which the Contractor proposes to carry out the works including the design, vetting, manufacture, delivery to site and commissioning thereof. After submission to and approval by the client of such programme, the Contractor shall adhere to the sequence of order and method stated therein. The approval by the client of such programme shall not relieve the Contractor of any of his duties or responsibilities under the Contract. The programme approved shall form the basis of evaluating the pace of all works to be performed by the Contractor. The Contractor shall update and submit the PERT network every week on acceptance of bid, and shall inform the client the progress on all the activities falling on schedule for the next reporting date.

8 PREPARATION OF DRAWINGS FOR APPROVAL

- 8.1 Immediately after receipt of the LOI, The Contractor shall submit to client for approval:
- a) Programme schedule
 - b) Design and drawings pertaining to dredging and reclamation, etc.
 - c) During the progress of works and within such reasonable time, such drawings and details of the works as the client may require.

The specifications/conditions concerning the submission of drawings by the Contractor are detailed as under:

- 8.2 Within one week from the date of receipt of the order, Contractor shall furnish a list of all necessary drawings as briefly described below which the Contractor shall submit for approval, identifying each drawing by a serial number, descriptive title and expected date of submission.
- 8.3 The Contractor shall get the design approved by the client. The vetted drawings shall be submitted in triplicate (3 hard copies in A0 size and 3 soft copies in AUTOCAD format) and to the client for documentary evidence. All cost in connection with this shall be borne by the Contractor. No extension of time in this account will be granted to the Contractor.
- 8.4 All drawings shall show the following particulars in the lower right hand corner in addition to Contractor's name:
- i. Name of the client
 - ii. Project title
 - iii. Title of drawing
 - iv. Scale
 - v. Date of drawing
 - vi. Drawing number
 - vii. Space for client's drawing number.
- 8.5 In addition to the information provided on drawings, each drawing shall carry a revision number, date of revision and brief description of revision carried out. Whenever any revision is carried out, revision number must be up-dated accordingly.
- 8.6 All dimensions on drawings shall be in metric units.
- 8.7 Drawings (three sets) submitted by the Contractor for approval will be checked by the client and comments, if any, on the same will be conveyed to the Contractor along with one set of drawing duly marked. It is the responsibility of the Contractor to incorporate correctly all the comments conveyed by the client on the Contractor's drawings. The drawings which are approved with comments are to be re-submitted with corrections for the purpose of records. Such drawings will not be checked/reviewed by the client to verify whether all the comments have been incorporated by the Contractor. If the Contractor is unable to incorporate any comments in the revised drawings, Contractor shall clearly state in his forwarding letter such non-compliance along with valid reasons.
- 8.8 All these drawings shall further be considered as a part of the specifications. However, the examination of the drawings by the client shall not relieve the Contractor of his responsibility for engineering design, workmanship, quality of materials, warranty obligations and satisfactory performance as covered under the Contract.
- 8.9 If at any time before completion of the work, changes are made necessitating revision of approved drawings, the Contractor shall make such revisions and proceed in the same routine as for the original approval.
- 8.9 The Contractor shall furnish 3 sets of operation and maintenance manuals together with 3 sets of as-built drawings and 1 soft copy, in sufficient detail to enable the client for future repairs and maintenance. Unless otherwise agreed, the works shall not be considered to be

completed for the purposes of taking over until such manuals and drawings have been supplied to the client.

9 STATUTORY APPROVALS

- 9.1 The Contractor shall obtain all necessary statutory approvals/prior approvals of the authorities as may be required and the incidental expenses for obtaining such approvals shall be included in the Contract price.
- 9.2 All the necessary details, drawings, submission of application and pro forma shall be furnished by the Contractor to the client for verification/signature.
- 9.3 The necessary application duly filled-in, together with the prescribed fees shall be submitted to the appropriate authorities by the Contractor on behalf of the client. All cost in this regard shall be included in the Contract price.
- 9.4 Wherever necessary or required, the Contractor shall furnish the test and/or inspection certificates, etc. from the appropriate authorities as per statutory regulations and the cost for obtaining these certificates shall be included in the Contract price.
- 9.5 The Contractor shall obtain all approvals and certifications from all relevant authorities.

10 CONTRACTOR'S TEAM

- 10.1 The Contractor shall employ one or more competent representatives, whose names shall have previously been communicated in writing to the client, to supervise the works at the site. At least one of the said representatives shall be present at the site during all times, and any orders or instructions which the client may give to the said representative shall be deemed to have given to the Contractor. The said representative shall have full technical capabilities and complete administrative and financial powers to expeditiously and efficiently execute the work under the Contract.
- 10.2 The Contractor shall execute the works with due care and diligence within the time specified for completion and shall employ their team comprising qualified and experienced engineers together with adequate skilled, semi-skilled and unskilled workmen at the site for carrying out the works. The Contractor shall ensure adequate work force to keep the required pace at all times as per the schedule of completion.
- 10.3 The Contractor shall furnish the details of qualification and experience of their senior supervisors, engineers assigned to the work site, including their experience in supervising and commissioning of similar projects.
- 10.4 None of the Contractor's supervisors, engineers, or labourers may be withdrawn from the work without notice to the client and further, no such withdrawals shall be made if in the opinion of the client it will adversely affect the required pace of progress and/or the successful completion of the work.
- 10.5 The client shall be at liberty to object to any representative or person including skilled, semi-skilled or unskilled worker, employed by the Contractor in the execution of the

works, or otherwise, who shall, in the opinion of the client, misconduct himself or be incompetent, or negligent or unsuitable, and the Contractor shall remove the person so objected to, upon receipt of notice in writing from the client and shall provide in that place a competent representative at the Contractor's own expense within a reasonable time.

- 10.6 In the execution of the works, no person other than the Contractor, sub-Contractor and their employees shall be allowed at the site except by written permission of the client.

11 CLIENT'S INSTRUCTIONS

The client may in their absolute discretion, issue from time to time instructions, directions and clarifications, which are collectively referred to as client's instructions in regard to:

- i) Any additional drawing and clarifications to exhibit or illustrate details.
- ii) Variations or modifications of the design, quality or quantity of work or additions or omissions or substitution of any work.
- iii) Any discrepancy in the drawings or specifications.
- iv) Removal from the site of any material brought there by the Contractor, which are unacceptable to the client and substitution of any other material thereof.
- v) Removal and/or re-execution of any work erected by the Contractor which are unacceptable to the client.
- vi) Opening up for inspection of any work covered up.
- vii) Amending and making good of any defects.

12 RIGHTS OF THE CLIENT

- 12.1 The client shall have the right to direct the manner in which all works under this Contract shall be conducted, in so far as it may be necessary to ensure safe and proper progress and specified quality of the works.
- 12.2 Whenever in the opinion of the client the Contractor has made deviation from the schedule of completion, or when circumstances or requirement force such a deviation from the said schedule, the client, in order to ensure compliance with the schedule, shall direct the order, pace and method of conducting the work, which shall be adhered to by the Contractor.
- 12.3 If in the judgment of the client it becomes necessary at any time to accelerate the overall pace of the work, the Contractor, when directed by the client, shall cease work at any particular point and transfer Contractor's men to such other point or points and execute such works, as may be directed by the client.

13 CONTRACTOR'S OBLIGATIONS

- 13.1 The Contractor shall proceed with the work to be performed under this Contract with the best of quality and in a workmanlike manner by engaging qualified and efficient workers and finish the work within the scheduled time and in strict conformance with the drawings and specifications and any changes/modifications thereof made by the client.

13.2 The client shall make any variation of the form, quality or quantity of the works or any part thereof which, in their opinion is desirable and they shall have power to order the Contractor to do and the Contractor shall do any of the following:

- (a) Increase or decrease the quantity of any work included in the Contract.
- (b) Omit any such work,
- (c) Change the character or quality or kind of any such work,
- (d) Change the levels, lines, position and dimensions of any part of the works, and
- (e) Execute additional work of any kind necessary for the completion of the works.

and no such variation shall in any way vitiate or invalidate the Contract, but the value, if any, of all such variations shall be taken into account in ascertaining the amount of the Contract price. No such variations shall be made by the Contractor without an order in writing by the client no such variation shall invalidate the Contractor's responsibility.

13.3 All extra or additional work done or work omitted by order of the client shall be valued at the rates and prices set out in the Contract if in the opinion of the client, the same shall be applicable. If the Contract does not contain any rates or prices applicable to the extra or additional work, then suitable rates or prices shall be agreed upon between the client and the Contractor. In the event of disagreement, the client shall fix such rates or prices as shall, in his opinion, be reasonable and proper. The Contractor shall send to the client once in every month, a statement giving particulars, as full and detailed as possible, of all claims for any additional payment to which the Contractor may consider himself entitled because of extra or additional work ordered by the client which he has executed during the preceding month.

13.4 The work shall be carried out as approved by the client from time to time, keeping in view the overall schedule of completion of the project.

13.5 The client may also direct the Contractor to operate extra shifts to ensure completion of Contract as per schedule.

13.6 The Contractor shall arrange for insurance of all men, machinery and materials brought by him to the site for the execution of the Contract, till handing over of the complete job.

13.7 The client shall not be liable for or in respect of any damages or compensation payable under the workmen's compensation Act (VIII) 1953, Employees Provident Fund Act or any other law in respect or in consequence of any accident or injury to any workman or other person in the employment of the Contractor or any sub-Contractor. The Contractor shall indemnify and keep indemnified the client against all such damages and compensation against all claims, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

13.8 The Contractor shall ensure against such liability with an insurer approved by the client, and shall continue such insurance during the whole of the time that any persons are employed by him on the works and shall, when required, produce to the client such policy of insurance and the receipt for payment of the current premium.

- 13.9 The Contractor shall effectively protect The materials/equipments from the effects of weather and from damages or defacement and shall cover appropriately, wherever required, all the works carried out by him.
- 13.10 Adequate lighting, guarding and watching at and near all the storage, handling, fabrication, pre-assembly sites for properly carrying out the work and for safety and security shall be provided by the Contractor at Contractor's cost. The Contractor should adequately light the work area during night time also.
- 13.11 The Contractor shall take full responsibility for the care of the works or any section or portions thereof until taking over by the client and in case any damage or loss shall happen to any portion of the works not taken over as aforesaid, from any cause whatsoever, the same shall be made good by and at the sole cost of the Contractor and to the satisfaction of the client. The Contractor shall also be liable for any loss of or damage to the works including works carried out by others, caused by the Contractor or his sub-Contractor in the course of any operations carried out by them for the purpose of completing any outstanding work or complying with his obligations.
- 13.12 The contractor will have no maintenance responsibility after handing over.

14 UNLOADING, LEADING AND INSPECTION

- 14.1 The Contractor shall be responsible for the reception and unloading of all the materials/equipment from the carriers, received at site. The Contractor shall ensure that adequate and all measures necessary to avoid any damage whatsoever to the equipment at the time of unloading are taken. Liaison with all state, local and police authorities shall be handled by the Contractor. The Contractor shall comply with local conditions regarding unloading work.
- 14.2 The Contractor shall safely lead/ shift the unloaded materials/ equipment to the storage area.
- 14.3 The client shall have full power and authority to inspect the items received at site, irrespective of whether the items are inspected/tested at the Contractor's shop floor.
- 14.4 The protection, safety and security of the materials shall be the responsibility of the Contractor, until they are handed over to the client after testing and commissioning as per the terms of the Contract.

15 STORAGE OF EQUIPMENT

- 15.1 Adequate security measures shall be taken by the Contractor to prevent theft and loss of materials under his custody.

16 Deleted

17 Deleted

18 **FINAL TAKING OVER**

18.1 Before taking over, the Contractor shall have complied with each of the following requirements.

- i) The supplies/works shall have been completed in all respects in accordance with the Contract documents/ Purchase Order.
- ii) Any defects/malfunctioning which may have become apparent during inspection have been rectified to the satisfaction of client.
- iii) Inspection by statutory authorities wherever necessary shall have been arranged and all statutory approvals obtained. The responsibility of obtaining necessary statutory clearances, insurances and licenses rests with the Contractor.
- iv) All the approved drawings and as-built drawings shall be submitted in the required number.

18.2 A Final taking over Certificate will be issued to the Contractor when the above pre-conditions have been satisfied. The date of issue of the Final taking over Certificate shall be deemed to be the date of completion of the commissioning activities.

19 **Deleted**

20 **Deleted**

21 **REVIEW AND CO-ORDINATION**

21.1 The Contractor shall depute senior and competent personnel to attend the site co-ordination meetings that would generally be held at the site every week. The Contractor shall take necessary action to implement the decisions arrived at such meetings and shall also update the project schedule.

22 **EXTENSION OF TIME FOR COMPLETION**

22.1 Should the amount of extra or additional work of any kind, or any cause of delay referred to in these conditions, or exceptional adverse climatic conditions, or other special circumstances of any kind whatsoever which may occur, other than through a default of the Contractor, be such as fairly to entitle the Contractor to an extension of time for the completion of the works, the client shall determine the amount of such extension and shall notify the Contractor accordingly. Provided that the client is not bound to take into account any extra or additional work or other special circumstances unless the Contractor has within ten days after such work has been commenced, or such circumstances have arisen, or as soon thereafter as is practicable, submitted to the client full and detailed particulars of any extension of time to which he may consider himself entitled, in order that such submission may be investigated at the time.

SECTION – VI

TECHNICAL SPECIFICATIONS

1.0 INTRODUCTION

IWAI intends to develop waterway required for the operation of Water Taxi. The proposed waterway is from Soniya Vihar to Tronica City. Three terminal buildings for Water Taxi operation are also proposed at Soniya Vihar, Jagatpur and Tronica city. The proposal is to develop the waterway by dredging and reclaim the land at the aforesaid locations by using the dredged material to provide infrastructural facilities for Terminal, approach roads and parking spaces.

2.0 DESIGN PARAMETERS

| | |
|--------------------|----------------------------------|
| Bottom width | : 30m |
| Tolerance | : ± 2.5 m from boundary line |
| Vertical tolerance | : -ve nil & +ve 0.1m |
| Side slope | : 1V to 5H |
| Designed depth | : 2.0 m from CD |

CD at various locations

| | |
|--|-----------|
| At upstream of Wazirabad barrage (chainage 0.01km) | : 204.83m |
| Upstream of Chauhan Patti (chainage 6.115km) | : 205.6m |
| Fatehpur Jat (chainage 15.159km) | : 206.41m |

2.1 Dredging conditions

The dredging and dredged material disposal shall be carried out adhering to the below mentioned conditions.

- 2.1.1 Dredging needs to be carried out from upstream end and must be completed in continuous stretches each not less than 500m.
- 2.1.2 The tenderer shall either own or shall have valid lease agreement for the complete contract period with owners of cutter suction dredgers of minimum 500 m³ per hour capacity or other type of dredgers which are required with accessories like floating and soar pipe line for disposal of dredged material up to a distance of about 1000 meter, supporting tug and other vessel etc.
- 2.1.3 Undertaking to mobilize the dredger(s)/ other equipment along with other accessories at site within 4 week from the date of issue of work order.
- 2.1.4 Dredgers proposed to be deployed shall have adequate swing and discharge through a nozzle

and required pipe line attachment.

Survey work connected with dredging shall be conducted jointly by IWAI and contractor. The equipment, man and machinery for detailed survey (Pre & Post) work will be provided by the contractor. Expenditure due to the above survey work including survey equipment, vessel and manpower shall be borne by the contractor.

- 2.1.5 Measurements will be based on pre and post dredging sounding.
- 2.1.6 Intermediate locations will be interpolated and rounded off to the decimeter.
- 2.1.7 Sounding are rounded off to decimeter (less than 5cm beyond full decimeter depth would be neglected and more than 5 cm beyond full decimeter would be rounded off to next higher value)
- 2.1.8 The dredged material has to be dumped at five terminal location detailed at section 2.3.
- 2.1.9 Maximum disposal elevation: (to be discussed and finalized with IWAI, proposed is 211MSL)
- 2.1.10 Average disposal elevation: (to be discussed and finalized with IWAI)
- 2.1.11 Maximum distance of disposal from river bank, shall not be less than 50 m unless and otherwise approved by the client.
- 2.1.12 The height of dumping shall not exceed 1.5m from the existing ground level unless and otherwise approved by the client
- 2.1.13 Dredged material disposal can be undertaken at various identified locations considering the following environmental aspects.
- 2.1.14 Agricultural land must not be disturbed
- 2.1.15 Forest land must not be disturbed
- 2.1.16 Disposal must comply with marine environment and aquatic life
- 2.1.17 Controlled discharge so that water quality at the downstream particularly at the intake point of “Delhi Jal Board” shall be within the permissible limit
- 2.1.18 Oil and other waste from the dredger shall not be disposed in the river.
- 2.1.19 The tentative dredged material dumping areas are marked in the attached layout.
- 2.1.20 IWAI reserve the rights to extend the work if required at the same rates terms and condition of the contract subject to satisfactory performance of the work.
- 2.1.21 IWAI reserve the right to accept or reject any or all tenders without assigning any reason and no correspondence shall be entertained in this regard.

2.2 Dredging quantity

Dredging quantity calculated between Wazirabad barrage and Fatehpur Jat at 2m depth with 1:5 slope for 50m waterway is tabulated below:-

| Location | Chainage (kms) | | LINE No. | | Reduced depth (m) | | Length of shoal (m) | Dredging quantity (cum) for 2.0m depth, 50m Bottom width with 1:5 slope | |
|--|----------------|----|----------|-----|-------------------|------|---------------------|---|-------------------|
| | From | To | From | To | Max | Min | | Per km drg | Accumulative drg. |
| Wazirabad Barrage to Fatehpur Jat | 0 | 1 | 1 | 21 | 6.8 | 2.1 | 0 | 0.00 | 0.00 |
| 15410 | 1 | 2 | 22 | 41 | 9.1 | 2 | 0 | 0.00 | 0.00 |
| | 2 | 3 | 42 | 62 | 2.7 | 0.9 | 600 | 5689.30 | 5689.30 |
| | 3 | 4 | 63 | 82 | 4.4 | 0.9 | 750 | 15248.29 | 20937.59 |
| | 4 | 5 | 83 | 103 | 10.2 | 1.1 | 150 | 2254.34 | 23191.93 |
| | 5 | 6 | 104 | 126 | 4.5 | 0.1 | 850 | 24560.47 | 47752.40 |
| | 6 | 7 | 127 | 147 | 4.1 | 0 | 900 | 29772.73 | 77525.13 |
| | 7 | 8 | 148 | 168 | 8.9 | 1.2 | 300 | 739.63 | 78264.76 |
| | 8 | 9 | 169 | 189 | 3.8 | 0.6 | 1000 | 25633.48 | 103898.24 |
| | 9 | 10 | 190 | 209 | 3.2 | 0.6 | 1000 | 24527.12 | 128425.36 |
| | 10 | 11 | 210 | 229 | 5.4 | 0.8 | 1000 | 18030.90 | 146456.26 |
| | 11 | 12 | 230 | 249 | 3.8 | 0.5 | 1000 | 19118.02 | 165574.28 |
| | 12 | 13 | 250 | 269 | 9.1 | 0.5 | 700 | 31937.98 | 197512.26 |
| | 13 | 14 | 270 | 289 | 12 | 0.4 | 200 | 7124.40 | 204636.66 |
| | 14 | 15 | 290 | 310 | 7 | -0.2 | 750 | 33419.89 | 238056.55 |
| | 15 | 16 | 311 | 319 | 1.8 | 0.2 | 550 | 23133.86 | 261190.41 |
| Total Dredging quantity (cum) | | | | | | | | 261190.41 | |

Wazirabad Barrage to Fatehpur Jat @ 2m depth

This table gives an indication for the quantity of dredging for the prospected 30m waterway.

Source: *Detailed Hydrographic surveys in Yamuna River by M/s. New Horizon Surveys, survey period: 1st June 2016 to 23rd June 2016*

2.3 Terminal locations

The latitude and longitude of the terminal locations are shown below:-

Soniya Vihar

- District – North Delhi (Delhi)

- b. Coordinates of the Site - Latitude - 28°43'18.86"N, Longitude - 77°14'32.91"E

Jagatpur

- a. District – North Delhi(Delhi)
- b. Coordinates of the Site – Latitude - 28°44'20.13"N, Longitude - 77°13'45.03"E

Tronica city

- a. District – North Delhi (Delhi)
- b. Coordinates of the Site – Latitude - 28°46'22.03"N, Longitude - 77°14'19.62"E

3.0 EARTH WORK

Contractor shall carry out the survey of the site before filling and set properly all lines and establish levels. It is necessary to establish permanent bench mark at such point which will not be affected by subsequent work. Such survey shall be carried out by taking accurate cross sections of the area perpendicular to established reference/grid lines at 5 m intervals or nearer as determined by Engineer-in-charge based on ground profile.

The area to be filled shall be cleared of fences, trees, plants, logs, slumps, bush, vegetation's, rubbish slush, etc., and other objectionable matter. The material so removed shall be burnt or disposed off as directed by Engineer. Where earth fill is intended, the area shall be stripped of all loose/soft patches, top soil containing deleterious matter/materials before fill commences.

Contractor will be responsible if he has not taken precaution for the safety of the people, workers property or neighbor's property caused by his negligence during the operations.

3.1 Filling excavated earth in ground for land development

- 3.1.1 No earth fill shall commence until surface water discharges and streams have been properly intercepted or otherwise dealt with as directed by Engineer-in-charge.
- 3.1.2 Filling shall be carried out as indicated in the drawings and as directed by Engineer-in-charge. If no compaction is called for, the fill may be deposited to the full height in one operation and levelled. If the fill has to be compacted, it shall be placed in layers not exceeding 600 mm and levelled uniformly and compacted before the next layer is deposited.
- 3.1.3 Field compaction is called for, test shall be carried out at different stages of filling and also after the fill to the entire height has been completed. This shall hold good for embankments as well. The tests for field compaction shall be specified by the Engineer and the Contractor shall arrange to carry out such tests to the satisfaction of the Engineer-in-charge.

- 3.1.4 Contractor shall protect the earth fill from being washed away by rain or damaged in any other way. Should any slip occur, Contractor shall remove the affected material and make good the slip at his own cost.
- 3.1.5 The fill shall be carried out to such dimension and levels as indicated on the drawings after the stipulated compaction. The fill shall be considered as incomplete if the desired compaction has not been obtained.

**EPC TENDER FOR DREDGING IN YAMUNA RIVER FOR WATERWAY
DEVELOPMENT FROM SONIYA VIHAR TO TRONICA CITY AND RECLAMATION OF
LANDS AT SONIYA VIHAR, JAGATPUR, TRONICA CITY USING DREDGED
MATERIAL**

BILL OF QUANTITIES

1 Schedule of prices

1.1 Preamble

1.1.1 General

The following shall be read in conjunction with the Conditions of Contract, Special conditions of contract, Employer's Requirements, Scope of Work, Technical Specifications and drawings for E-tender for dredging in Yamuna river for Waterway development from Wazirabad to Fatehpur Jat and reclamation of lands at Wazirabad, Soniya Vihar, Jagatpur, Tronica city and Fatehpur jat using dredged material. All Lump Sum prices and units quoted in the Schedule of Prices shall include the following instructions where applicable.

- a) This is an EPC Fixed Price Lump sum Contract.
- b) The Schedule of Prices as quoted in Bills shall be the fixed contract price. However the Tenderer is required to furnish Schedule A - Items of Work also containing the components of work, their quantities and the unit rate. This schedule will be used only for the purpose of making interim payments. Interim measurements of the work will be made and the Contractor will be paid based on the actual quantities of work executed. The total of such interim payments will be limited to the lump sum price quoted under Bills.
- c) It shall be clearly understood that there shall not be any claim whatsoever by the Tenderer on the ground that there are inadequate items of work (work based on quantity and work based on specified items) provided in the Schedule of Prices for pricing by the Tenderer.
- d) The whole cost of complying with the provisions of the Tender document shall be included in the items provided in the priced Schedule of Prices and where no items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the available items of work. The price quoted shall include all costs upto successful completion of Defects Liability Obligations by the Contractor.
- e) The rates and prices tendered by the Tenderer in the Schedule of Prices shall, except insofar as it is otherwise provided under the Contract, including but not limited to all Tenderer's equipment, labour, supervision, materials, plant, wastage, fuel, erection, maintenance, insurance, profit, overheads, together with all general risks, liabilities and obligations set out or implied in the Tender document including all taxes, duties, fees, royalty and other statutory deductions.
- f) General requirements, directions and descriptions of work and materials, given in the Specifications or Drawings or Conditions of Tender / Contract are not necessarily repeated nor summarized in the Schedule of Prices. Tenderer is specifically advised to check and include any other item required for completeness of the total work as per the scope of work and specification and satisfactory performance of the total system.

1.2 PRICE BID for SCHEDULE-A : COST SCHEDULE FOR DREDGING in Yamuna river for waterway development from Soniya Vihar to Tronica City:

(This BOQ template must not be modified /replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for this tender. Bidders are allowed to enter the Bidder Name and Values only)

| S.No. | Description | Qty. | Unit | Rate | Amount |
|-------|--|--------|------|------|--------|
| 1.a | <ul style="list-style-type: none"> Dredging in Yamuna river for waterway development from Soniya Vihar to Tronica City: <p>Execution of dredging through the assistance of dredgers of appropriate size, type and capacity as per general & special conditions and Technical specification. The rate includes mobilization, de-mobilization charges, shifting charges from shoal to shoal, dumping of dredged spoil at Sonia vihar ,jagat pur and Tronica city terminal location / up to maximum 1000 m through pipelines or road transportation including taxes (except service tax) as prevailing and all other charge, expenditure etc. complete in all respect</p> | 100000 | Cum | | |
| 1.b | Design ,supply and installation of navigational aids i.e day mark of FRP buoy of 0.5 meter dia and 1 meter height with anchor, sinker and required length of chain as per approved specification from reputed supplier at every 500 meter distance both side of the channel of 6.5 Km stretch to demark the dredged channel | 30 | Set | | |
| 2 | Service Tax | | | | |
| | GRAND SUMMARY | | | | |

Note: (i) Pre and Post Dredging survey shall be carried out to determine the Dredging Quantity (ii) Service Tax will be reimbursed on production of proof of deposit only

Total Amount in Words.....

Datedday of2016

Signature of Tenderer

SECTION - VIII

FORMS

FORM FOR EMD

(ON NON-JUDICIAL STAMP PAPER OF Rs.100.00)

Whereas (hereinafter called “the Tenderer”) has submitted its bid dated (date of submission of bid) for the supply of (name and/or description of the goods) (hereinafter called “the Bid”).

KNOW ALL PEOPLE by these presents that We (name of bank) of (name of country), having our registered office at (address of bank) (hereinafter called “the Bank”), are bound unto(name of ACCEPTING AUTHORITY) in the sum of _____ for which payment well and truly to be made to the said ACCEPTING AUTHORITY, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said bank this _____ day of _____ 201____.

The conditions of this obligation are:

1. If the Tenderer withdraws its Bid during the period of bid validity specified by the Tenderer on the Bid Form; or
2. If the Tenderer, having been notified of the acceptance of its bid by the ACCEPTING AUTHORITY during the period of bid validity:
 - a) fails or refuses to execute the Contract Form if required; or
 - b) fails or refuses to furnish the performance security, in accordance with the Instruction to Bidders.

We undertake to pay the ACCEPTING AUTHORITY up to the above amount upon receipt of its first written demand, without the ACCEPTING AUTHORITY having to substantiate its demand, provided that in its demand the ACCEPTING AUTHORITY will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including sixty (60) days after the period of the bid validity, and any demand in respect thereof should reach the Bank not later than the above date.

(Signature/Seal of the Bank)

CONTRACT FORM

(ON NON-JUDICIAL STAMP PAPER OF Rs.200.00)

THIS AGREEMENT made in day of, 20.... between
(Name of ACCEPTING AUTHORITY) of(Country of ACCEPTING
AUTHORITY) (hereinafter “the ACCEPTING AUTHORITY ”) of the one part and
..... (Name of Supplier) of (City and Country of Supplier)
(hereinafter called “the Supplier”) of the other part:

WHEREAS the ACCEPTING AUTHORITY invited bids for certain Goods and ancillary
services viz., (Brief Description of Goods and Services) and had accepted a
bid by the Supplier for the supply of those goods and services in the sum of
..... (Contract Price in Words and Figures) (hereinafter called “the
Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - a) the Tender Document No..... and the Price Schedule submitted by the Supplier;
 - b) the Schedule of Requirements & Price;
 - c) the Technical Requirements;
 - d) the Special Conditions of Contract
 - e) the General Conditions of Contract;
 - f) the ACCEPTING AUTHORITY ’s Notification of Award.
3. In consideration of the payments to be made by the ACCEPTING AUTHORITY to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the ACCEPTING AUTHORITY to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The ACCEPTING AUTHORITY hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

Brief particulars of the goods and services which shall be supplied/provided by the Supplier are as under:

| | | | | |
|-------|-------------|-------------|-------|-------|
| ----- | | | | |
| Sl. | Brief | Quantity to | Unit | Total |
| No. | description | be supplied | price | price |
| | of items | | | |
| ----- | | | | |
| ----- | | | | |

TOTAL VALUE:

DELIVERY SCHEDULE:

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, Sealed and Delivered by the
said (for the ACCEPTING AUTHORITY)
in the presence of :

Signed, Sealed and Delivered by the
said (for the Supplier)
in the presence of

ANNEX - I: BANK GUARANTEE FORM FOR PERFORMANCE SECURITY

To

The Chairperson

Inland waterways Authority of India

Ministry of Shipping, Govt. of India

A-13, Sector-1,

Noida(U.P.)

Pin- 201301

In consideration of the (hereinafter called “**Employer**”) having to enter into an Agreement with M/s (hereinafter called the “**Contractor**”) as a follow up to the Letter of Award no.....dated..... issued by the Employer for....., on production of Performance security in the form of Bank Guarantee for INR (Rupees.....only), at the request of **Contractor, We, (Bank)** do hereby undertake to pay to the Employer an amount not exceeding INR..... (Rupees-----only) against any default or failure on the part of Contractor to perform the contract in accordance with terms & conditions or any breach of the said Agreement.

1. We, **(Bank)** do hereby undertake to pay the amount due and payable under this Guarantee without any demur, merely on a demand from the Employer stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the Employer by reason of breach by the said **Contract** or any of the terms or conditions contained in the said time frame or by reason of the **Contractor’s** failure to perform the said Agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding INR..... (Rupees.....only).
2. We, **(Bank)** undertake to pay the Employer any money so demanded notwithstanding any dispute or disputes raised by the **Contractor** in any suit or proceeding pending before any court or Tribunal relating thereto, liability under this present being absolute and unequivocal. The payment so made by us under this guarantee shall be valid discharge of our liability for payment there under and the **Contractor** shall have no claim against us for making such payment.
3. We, **(Bank)** further agree that the guarantee herein contained shall remain in full force and effect till completion of project work to the complete satisfaction of the Employer in terms of conditions of contract and Letter of Award and that it shall continue to be enforceable till all

the dues of the Employer under or by virtue of the said Agreement have been fulfilled and its claim satisfied or till the scheduled date of completion of Works as per the Agreement. We(Bank) shall consider that the terms and conditions of the said Agreement have been fully and properly carried out by the said **Contractor** and accordingly discharge this Guarantee after 90 days from the date of completion of the said contract unless a demand or claim under this Guarantee is served by the Employer in writing on the bank but before the expiry of the said period in which case it shall be enforceable against the bank notwithstanding the fact that the same is enforced after the expiry of the said period or after the extended period as the case may be.

4. We (**Bank**) further agree with the Employer that the Employer shall have fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time or performance by the said **Contractor** from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said **Contractor** and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said **Contractor** or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said **Contractor** or by any such matter or thing whatsoever which under the law relating to sureties would, but for the provision, have effect of so relieving us.
5. It shall not be necessary for the Employer to proceed against the **Contractor** before proceeding against the Bank and the guarantee herein contained shall be enforceable against the bank notwithstanding any security which the Employer may have obtained or obtain from the **Contractor** at the time when proceedings are taken against the bank hereunder be outstanding or unrealized.
6. Notwithstanding anything contained herein above our liability under the guarantee is restricted to INR(Rupees..... only) and shall remain in force until or otherwise until the extended date by the Employer. Unless a claim or suit under this guarantee is filed with us on or before or the extended date ALL OUR RIGHTS UNDER THE GUARANTEE SHALL BE FORFEITED and the bank shall be relieved and discharged from all liabilities therein.
7. This Guarantee will not be discharged due to the change in the constitution of the Bank or the **Contractor**.

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

Dated the of 2009
for
(Indicate the name of bank)

Signature.....
Name of the Officer
(In Block Capitals)
Designation
Code No.
Name of the bank and Branch.(SEAL)

FORM OF BANK GUARANTEE AGAINST ADVANCE PAYMENT

(ON A NON-JUDICIAL STAMP PAPER OF RS.100/-)

Bank Guarantee No.

Date :

In consideration of the (hereinafter called 'the ACCEPTING AUTHORITY ') having agreed to grant an advance of Rs.(Rupeesonly) to M/s.....(hereinafter called 'the Supplier) under the terms and conditions of the Contract/Purchase Order No..... dated Made between the ACCEPTING AUTHORITY and the Supplier for the design, supply, fabrication, transportation, erection and commissioning (hereinafter called the Contract/Purchase Order') on production of a Bank Guarantee for Rs. (Rupees Only) being per cent of the contract price. We (hereinafter called 'the Bank') do hereby undertake to pay the ACCEPTING AUTHORITY an amount not exceeding Rs. (Rupees only) against any loss/damage caused to or would be caused to or suffered by the ACCEPTING AUTHORITY by reason of any breach by the Supplier of any of the terms and conditions contained in the Contract/ACCEPTING AUTHORITY Order.

We,(name of Bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur merely on a demand from the ACCEPTING AUTHORITY stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the ACCEPTING AUTHORITY by reasons of any breach by the Supplier of any of the terms and conditions contained, in the Contract/Purchase Order or by reasons of the Supplier's failure to perform the Contract/Purchase Order, any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee shall be restricted to an amount not exceeding Rs. (Rupeesonly).

We,, further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the Contract/Purchase Order and that it shall continue to be enforceable till all the dues of the ACCEPTING AUTHORITY , under, or by virtue of the Contract/Purchase Order have been fully paid and it's claims satisfied or discharged or till the ACCEPTING AUTHORITY certifies that the terms and conditions of the Contract/Purchase Order have been fully and properly carried by the Supplier

and accordingly discharge the guarantee unless a demand or claim under this guarantee made on us in writing on or before we shall be discharged from all liability under this guarantee thereafter.

We,, further agree with the ACCEPTING AUTHORITY that the ACCEPTING AUTHORITY shall have the fullest liberty without our consent and without affecting in any manner our obligation hereunder to vary any of the terms and conditions of the Contract/Purchase Order to extend time of performance by the Supplier from time to time or to postpone for any time or from time to time any of the power exercisable by the ACCEPTING AUTHORITY against the Supplier and to forbear or enforce any of the terms and conditions relating to the Contract/Purchase Order and we shall not be relieved from our liability by reason of any such variation, or extension or for any forbearance, act of omission on the part of the ACCEPTING AUTHORITY or any indulgence by the ACCEPTING AUTHORITY to the Supplier or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

We,, lastly undertake not to revoke this guarantee during its currency except with the previous consent of the ACCEPTING AUTHORITY in writing.

Notwithstanding anything stated herein above the liability of the Bank guarantee is restricted to Rs. (Rupees only). The guarantee shall remain in force till the 201.. and unless the guarantee is renewed or a claim is preferred against the Bank within three months from the said date, all rights of the ACCEPTING AUTHORITY under the guarantee shall cease and the Bank shall be released and discharged from all liabilities hereunder.

| | | |
|---------|---|-----------|
| Place : | | Signature |
| Date : | | Seal |
| | | Code No. |
| Note : | SUPPLIERS SHOULD ENSURE THAT SEAL AND CODE NO. OF THE SIGNATORY IS PUT BY THE BANKERS, BEFORE SUBMISSION OF THE BANK GUARANTEE. | |

DETAILS OF PAST EXPERIENCE OF CONTRACTOR
FOR SIMILAR WORK

| Sl. No. | Name & location of project | Contract Value in Rs. | Details of contract | | | | Details of dredging work including disposal of dredged spoil. |
|---------|----------------------------|-----------------------|--------------------------|----------------------|---------------------------|------------------------|---|
| | | | Dredging Quantity in Cum | Date of Commencement | Scheduled completion date | Actual completion date | |
| | | | | | | | |
| | | | | | | | |

Note: Bidder to enclose letter of intent and completion certificates issued by the concerned authority

List of the dredgers, equipments, pipelines etc propose to the work and assessment of the dredging capacity & deployment schedule

| SL. No | Name of Dredger | Technical details i.e. type, size, machineries including registration & survey certificates, year of procurement, details of pipelines & their availability etc. | Rated capacity | Output expected(cubic meter of solids at site) to be achieved during operation * | | | Whether own or to be hired/procured |
|--------|-----------------|--|----------------|---|----------|-----------|-------------------------------------|
| | | | | Per hour | Per week | Per month | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

* To be mentioned whether the assessment on the output to be achieved on one shift or two shift and duration of each shift:-

Note: (i) The bidder is requested to give all relevant and complete information as required including present location and if required he can use separate sheets.

(Signature of Tenderer)

SECTION - VI

PRICE BID

FORM FOR PRICE BID

(Tenderers are required to furnish this Form and appropriate Price Schedule for each part in the Format given in this Part in a separate cover, after filling all the blank spaces).

Date: _____

To: Chairman
IWAI

Sir,

Having examined the Conditions of Contract and Technical Specifications included in the Tender Documents, we, the undersigned, offer services for E-tender for dredging in Yamuna river for Waterway development from Soniya Vihar to Tronica City and reclamation of lands at at three locations as detailed in the technical bid.

We offer to carry out the services as mentioned in or referred to in the said Tender Document for the sum of Rs. _____ (Total Bid Amount in words and Figures) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this tender and the said conditions.

Our acceptance to all the conditions of the Tender Document in this form shall persist over any other terms and conditions, if any, given in our bid.

We undertake, if our tender is accepted, to commence and complete all works as specified in the Technical Specification of the Tender Document, from the date of receipt of your Purchase Order/ Letter of Intent.

Until a formal Contract is prepared and executed, this bid, together with your written acceptance thereof and your Purchase order, shall constitute a binding Contract between us.

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

Dated this _____ day of _____ 20 ____.

Signature

(In the Capacity of)

Duly Authorized to sign bid for and on behalf of (Name & Address of Tenderer)

Name of

Witness _____ Signature

Address _____

ANNEX - II: AGREEMENT FORM

**TENDER FOR FAIRWAY DEVELOPMENT FROM SONIYA VIHAR TO TRONICA CITY
AND RECLAMATION OF LANDS AT SONIYA VIHAR, JAGATPUR AND TRONICA CITY
USING DREDGED MATERIAL FOR WATER TAXI PROJECT ON YAMUNA RIVER,
DELHI**

AGREEMENT

BETWEEN

INLAND WATERWAYS AUTHORITY OF INDIA

AND

BIDDER

This agreement made on this day of Two thousand thirteen between Inland Waterways Authority of India, A – 13, Sector – 1, Noida - 201 301, U.P. (hereinafter called the “IWAI” which expression shall unless excluded by or repugnant to the context be deemed to include their successor in office) on the one part and M/S.....having its office at(hereinafter called “ Contractor “which expression shall unless excluded by or repugnant to the context be deemed to include their heirs, executors, administrators, representatives and assigns or successor in office) on the other part.

WHEREAS IWAI is desirous of Dredging & providing fairway maintenance for a least available depth of 2.0 m along with provision of navigational aids in the entire stretch of Ghaghra River (NW-40) for shipping & navigation as per the work Order No.datedin accordance to the ToR conduits of the agreement attachment hereto all of with form part if the agreement.

WHEREAS THE CONTRACTING FIRM has agreed to undertake the TENDER FOR FAIRWAY DEVELOPMENT FROM SONIYA VIHAR TO TRONICA CITY AND RECLAMATION OF LANDS AT SONIYA VIHAR, JAGATPUR AND TRONICA CITY USING DREDGED MATERIAL FOR WATER TAXI PROJECT ON YAMUNA RIVER, DELHI

Terms and Conditions herein after set forth.

NOW THEREFORE THESE PRESENTS WITNESS and it is hereby agreed, declared by and between the parties hereto as follows:

The Contractor shall undertake the TENDER FOR FAIRWAY DEVELOPMENT FROM SONIYA VIHAR TO TRONICA CITY AND RECLAMATION OF LANDS AT SONIYA

VIHAR, JAGATPUR AND TRONICA CITY USING DREDGED MATERIAL FOR WATER TAXI PROJECT ON YAMUNA RIVER, DELHI

as per the work Order No.datedin accordance to the ToR of the agreement attachment hereto all of which form part of the agreement.

The following documents shall be deemed to form and to be read and construed as part of the agreement i.e.

- a) Notice inviting Tender
- b) Form of Tender
- c) Condition of contact
- d) Schedule of the price bid
- e) Agreement form
- f) Technical Bid No. with Date.
- g) Addendums/Corrigendum's
- h) Minutes of Pre-bid Meeting
- i) All Correspondence
- j)
- k)
- l)
- m)

In WITNESS whereof the IWAI has caused Shrion their behalf to hereunto set his handand the Contractor has caused Shri on their behalf to hereunto set his handand the firm has caused its common seal to be affixed hereunto the day and year first above written.

Witnesses, IWAI

- 1)
- 2)

.....
And this deed was duly executed by Shri.....for the Contractor above named in the presence of

Witnesses of Contractor

- 1)
- 2)

ANNEX-V:TENDER ACCEPTANCE LETTER

(To be given on Company Letter Head)

To,

Date:

**The Hydrographic Chief,
INLAND WATERWAYS AUTHORITY OF INDIA,
A-13, Sector – 1, Noida - 201 301,
District: - GautamBuddha Nagar (U.P.)**

Sub: Acceptance of Terms & Conditions of Tender.

Tender Reference No:

**Name of Tender/Work: - TENDER FOR FAIRWAY DEVELOPMENT FROM SONIYA
VIHAR TO TRONICA CITY AND RECLAMATION OF LANDS AT SONIYA VIHAR,
JAGATPUR AND TRONICA CITY USING DREDGED MATERIAL FOR WATER TAXI
PROJECT ON YAMUNA RIVER, DELHI**

Dear Sir,

1. I/ We have downloaded /obtained the Tender document(s) for the above mentioned 'Tender/Work' from the website(s) namely: www.iwai.nic.in OR <https://eprocure.gov.in/eprocure/appas> per your advertisement, given in the above mentioned website(s).
2. I / We hereby certify that I / we have read the entire Terms and Conditions of the Tender documents from Page No. _____ to _____ (including all documents like annexure(s), schedule(s), etc .), which form part of the contract agreement and I / we shall abide hereby by the terms/conditions/clauses contained therein.
3. The minutes of the pre-bid meeting(if any) and/ or corrigendum(s)(if any) issued from time to time by your department/organisation for this work too have also been taken into consideration, while submitting this acceptance letter.
4. I / We hereby unconditionally accept the Tender conditions of above mentioned Tender document(s)/minutes of the Pre-bid Meeting (if any)/corrigendum(s) (if any) in its totality / entirety.
5. In case any provisions of this Tender are found violated , then your department/ organisation shall without prejudice to any other right or remedy be at liberty to reject this Tender/Bid including the forfeiture of the full said earnest money deposit absolutely.

Yours Faithfully

(Signature of the Bidder, with Official

Terminal location details (Filling locations)

The details of three locations are enumerated below:-

a. Terminal 1 – Sonia Vihar

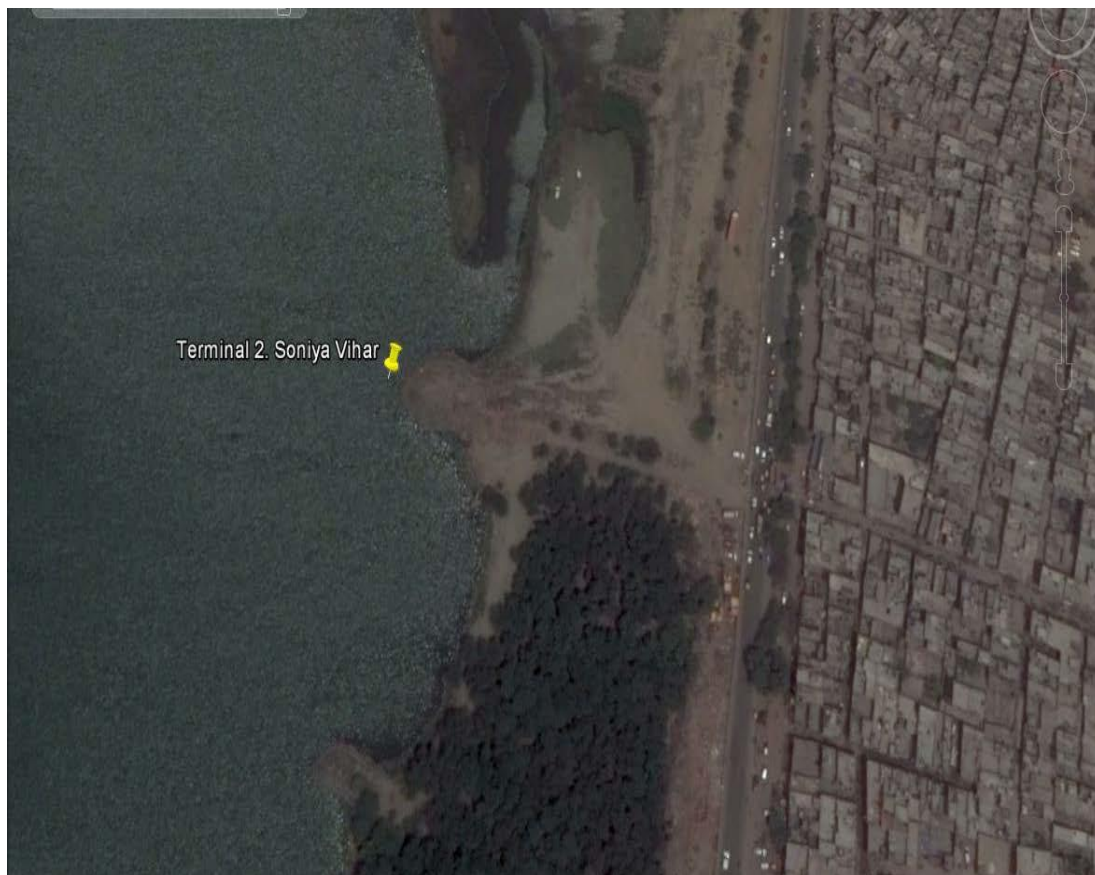


Figure 1. Google Earth imagery of the proposed area for terminal I

- The location for the second terminal is identified at the eastern bank of river at Sonia Vihar which is about 1.5 km from Wazirabad.
- The location is along the Sonia Vihar-Pushta Road, about 140m from the road, which is busiest one.
- The approach road to the proposed terminal is poorly developed.
- The location has minor fishing activities.
- Shore protection works such as shore walls and groynes constructions are undergoing in the identified location.
- Riparian vegetation is found as small patches along the river bank and also patches of grass are seen along the both banks of the river.
- Temporary constructions such as temples and sheds were present during the day of site visit
- River takes a bend at this location.



View of approach road



View of ongoing shoreline construction activities at site



View of proposed terminal location



View of grassland patched along the river

Figure 2. View of the proposed for Terminal I at Sonia Vihar

The site plan for the proposed facilities at Sonia Vihar is as shown below:-

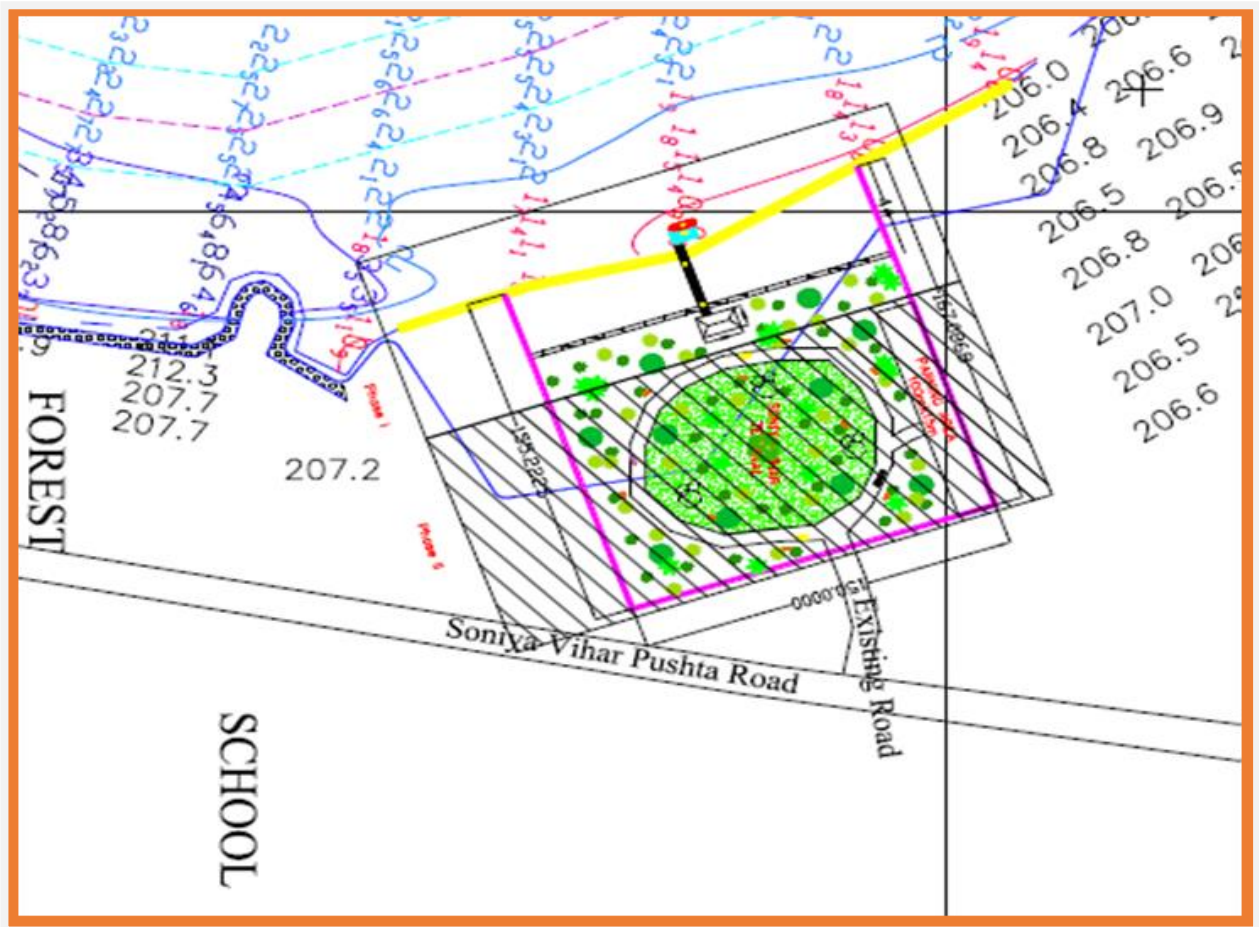


Figure 3. Site plan for the proposed Terminal I at Sonia Vihar

b. Terminal 2 – Jagatpur



Figure 4. Google Earth imagery of the proposed area for terminal II

- The location identified for the second terminal is at the Jagatpur bund location at the western side of the River.
- The terminal is about 4 km from Wazirabad.
- The present approach road to the identified location is the Jagatpur Bund Road which is about 700m from the main Wazirabad Road.
- The terminal is adjacent to the Yamuna Biodiversity Park about 1.5km.
- Shoreline protection structures such as groynes and walls are present.
- The adjacent plots are developed as agricultural fields, especially corn fields.
- The opposite bank is grassland, which is used for cattle grazing by the local people.



View of the approach road towards the main road



view of the proposed terminal location



View of the existing shore protection works



View of the grassland and shore protection at site

Figure 5. View of the proposed for Terminal II at Jagatpur

Figure 6. Site plan for the proposed Terminal II at Jagatpur

c. Terminal 3 – Tronica City



Figure 7. Proposed area for terminal 3

- The location for the Third terminal was identified on the eastern side of the River near to the Tronica City which is at a distance of 8 km from Wazirabad.
- The site is connected by approach road to the Tronica City Road.
- The site is about 350m from the Tronica City Road.
- The location adjacent to the terminal is grasslands used for grazing by animals.
- There is an existing old temple and abandoned, buildings near the location.
- Bank protection works are under construction.



View of approach road towards the main road



View of the proposed terminal location



View of river and shore protection at site



Approach road towards the site

Figure 8. View of the proposed for Terminal III at Tronica City

The site plan for the proposed facilities at Tronica city is as shown below:-

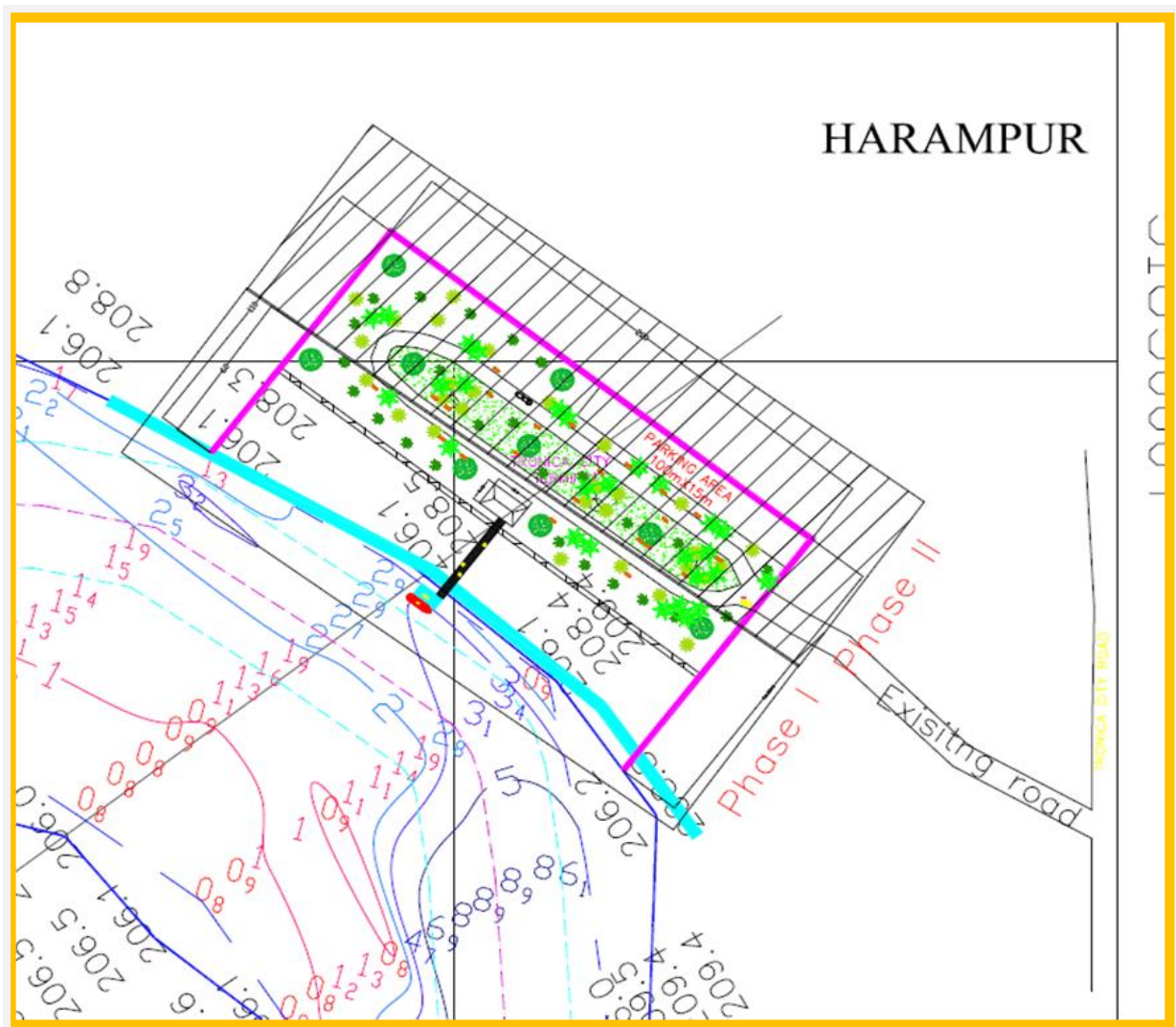


Figure 9. Site plan for the proposed Terminal III at Tronica City