

COCHIN PORT TRUST

Replies to the queries raised by bidders in connection with Tender for lease of 3 Nos. plots in Vallarpadam for a period of 30 years on annual lease rental basis with payment of onetime non-refundable premium as tender variable on tender-cum auction Method (Tender No. MSTC/BLR/COCHIN PORT TRUST/14/WILLIGDON ISLAND/19-20/19361)

S No.	Clause No.	Tender clause	Queries	CoPT's Responses
1	3.1.6	Annual rental escalation : 2% each yr.	Considering the size of the project, the escalation is very high. Should be once in 5 years	Tender condition prevails
2	3.1.7	Security deposit 2 yrs lease rental	Bank guarantee should be acceptable	Tender condition prevails. BG is not acceptable
3	1.8	Reserve price : Onetime non-refundable premium Rs.13,07,26,072 /-	It is very high. Needs to be rationalized. Also, it should be in the form of BG	Tender condition prevails. BG is not acceptable
4	3.1.9 & 5.1	shall not sublet the leased premises ; any sublease or part thereof or of the building shall be treated as unauthorized	Permission for sublet revenue model / operations by subsidiary companies should be allowed	operations by subsidiary companies/ outsourcing of activities is acceptable
5	3.8.5	Port shall provide necessary power and water at port tariff upto the point of plot – if feasible or lessee to make own arrangement .	Water/Power should be provided by CoPT	CoPT will provide the electricity from nearby substation / transformer up to the leased property on chargeable basis both initial cost & monthly charges. At present, Port does not have facility to supply fresh water at Vallarpadam area. Hence lessee shall take alternative arrangement for the same.
6	4.8.2	Lease period to commence from date of taking over of plot or from the date of expiry of 90 days	Rent should start from the date of DM NOC / Statutory Approvals	Tender condition prevails
7	3.1.7	Bidder to deposit 2 years lease rent as non interest bearing security deposit for 30 years and refunded after expiry of lease period.	Within how many days the SD will be refunded after expiry of lease period. If the Lease is terminated before the term, within how many days the SD amount be refunded	Within three months

8	3.1.9	Successful Bidder shall not under-let or otherwise sub-lease the leased premises or the building. Sub-Lease shall amount to termination or cancellation of Lease. Outsourcing of activities is permitted	In view of the ensuing JV transaction, request clarity permitting to transfer the lease hold rights with prior intimation to the CoPT. The meaning of outsourcing of activities is not clear. Operating of RO by Dealer or Dealer's contractor shall not be treated as sub-let.	Transfer will be permitted provided, the transferee takes over all the liabilities of the original lessee/allottee and on submitting an undertaking by the transferee for payment of the annual lease rental for the balance period. A fee equivalent to 50% of the total lease rent payable by the original lessee upto the time of transfer shall be paid for approving the transfer. Operating of RO by Dealer or Dealer's contractor shall not be treated as sub-let.
9	3.1.10	Plot No. 1 is not permitted for use for Fuel Dispensing Station. Plot No. 2 and 3 is permitted for fuel dispensing station.	Need clarity on change of land use. Presently plot no. 2 and 3 are commercial plots. Who shall be responsible for obtaining the approval/conversion of the same for petrol pump purpose? Whether operating of Plaza, Vehicle care centre, WSA is permitted from the said plots.	The plot No.2 & 3 are tendered for port related commercial purpose. The lessee can utilize the land for the proposed usage subject to approval from the concerned statutory agencies, which shall be obtained by the lessee. Operating of Plaza, Vehicle care centre and WSA is permitted from the said plots is permitted
10	3.1.11	Successful bidder shall use the plot within 2 years from taking over of the site. Lessee can propose stage wise construction which can exceed 2 years and Lessee shall abide by the timelines	What shall "use of plot mean"? Does it mean commencement of construction	The lessee should commence construction in the land within two years. Construction in phases, if proposed by the bidder and approved by the Port, beyond 2 year will be counted as utilization.
11	3.3.2	Tenderer to submit details about the share holding structure of the Company and percentage holdings held therein.	Whether holding above certain percentage to be provided or majority shareholders. Being a public limited company, percentage holding of share holders will be	details about the share holding structure above certain percentage of shareholders is adequate.

			exhaustive.	
12	3.3.3	Information regarding any current litigation in which tenderer is involved.	This requirement may be waived. There are several litigation where RIL will be a party and the information may not be relevant for this bidding exercise.	Details of current litigation if any, with CoPT may be submitted.
13	3.7.1	It is presumed that site is inspected by the Bidder before submission of Bid.	Since the land is to be taken on lease, title search of the property be done. The CoPT has not given any undertaking about the title of the land parcel being clear and marketable. The exact area of the plot may be measured appropriately	The land is earmarked in favour of Cochin Port Trust as per the BTR in Survey No. 235/3 of Mulavukadu Village. Exact area of the plot can be identified through a joint survey at the time of handing over of the property.
14	3.8.4.	Any existing pipelines, obstructions, cables etc. shall be re-laid/ dismantled by the lessee at its cost with prior approval and as directed by the appropriate authority	The obstructions be removed by Lessor before handing over the site. Are there any encumbrances on the plot?	Tender condition prevails. There is no encumbrances on the plots.
15	4.3	All taxes including GST, levy, duty etc., payable on execution of lease shall be paid by Lessee. Any increase in levy or introduction of new tax or levy shall also be payable by Lessee.	Whether Lease rent is inclusive or exclusive of GST?	GST (presently 18 %) shall be extra
16			Is there a need to take NH approval/ or meet Morth rules, even though plot 3 is not on the NH, but on the side road?	The road in front of plot-3 belongs to Port. Approval from NH for utilizing the land is normally not required. However same may be confirmed with NH Authorities according to the usage
17			Since one side of the plot has water front, Will CRZ rules (coastal regulatory zone) be applicable, if yes what are the approvals that we need to take?	Being situated adjacent to backwaters, CRZ rules are applicable to plot 1 and 3 and the usage should be planned accordingly.
18			Can we use the water front side of plot for fuelling fishing boats from	Yes, subject to statutory approvals, if required

			dispensing units? and allied facilities like Ice Factory etc.	
19			We would only be able to initiate construction at the site after receipt of DM NOC, PESO license etc, worst case scenario if this extends further than 2yrs, will there be any wavier on the additional 50% of normal lease rent penalty for not meeting the timelines?	The lessee should commence construction in the land within two years. Construction in phases, proposed by the bidder and accepted by the Port, beyond 2 years will be counted as utilization. Penalty for delayed utilisation will be as per the tender conditions
20			What are the approval we need to take from Cochin port? Or NOC s of other agencies?	All plans for the development of leased premises shall be got approved by the Chief Engineer, CoPT. The plan should also be got approved by the Mulavukadu Panchayath before commencement of any work. All statutory and mandatory clearances as may be required under law from appropriate authorities shall be obtained by the lessee at the appropriate time.
21			Is there any restriction on construction of no of floors (for building)?	Construction up to a height of 46 m is permissible
22			Backwaters distance from the plot no 3 to be provided	Situated close to the back water
23			Request for extension of tender by another 1 month, due to large scale project work especially on plot 3, which would entail detailed project planning that would include setting up of fuelling facilities, amenities and other allied activities.	Due date of submission of tenders for all the three plots has been extended up to 22.11.2019
<u>Lease deed conditions</u>				
S No.	Clause No.	Tender clause	Queries	CoPT's Responses
24	1(g)	Lessee to pay interest on all over due payments as specified in Scale of Rates.	The rate of penalty be specified in the agreement for clarity. Copy of Scale of Rates be given.	The Scale of Rate (SoR) is available in the CoPT website www.cochinport.gov.in . The SoR is subject to revision from time to time.

25	2(e)	If the Lessee does not utilize from the entire premises leased to Lessee, portion not required by Lessee shall surrendered without any compensation.	If the land is surrendered, amount of lease rent may be reduced proportionately	Agreed
26	2(m)	If Lessor removes/relays/ reroutes any utility services such as underground or overhead electrical lines etc, the cost of the same be borne by Lessee.	Existing cables etc., be removed by Lessor before handover	Lease deed condition prevails. However there is no such restrictions in the plots tendered as per the present assessment
27	2(o)	Lessee to indemnify Lessor against all loss, damage or injury arising directly or indirectly out of use of leased premises.	Indemnity may be mutual. If any claim or demand or encumbrance on title of leased premises arises, Lessor to indemnify Lessee to the extent of cost or damages including business loss in case RO operation is affected. Lessee's indemnity to Lessor may be only to the extent of loss or damage occurred to Lessor directly on account of use of premises by Lessee	Lease deed condition prevails. Lessee is free to inspect the title deeds of the plot tendered prior takeover of the plots
28	2(p)	Hoarding or advertisement board not to be erected without written permission of Lessor.	Hoarding / Advertisement to be permitted to be erected, without prior approval	Lease deed condition prevails.
29	2(q)	Lessor and its agents can enter premises at any time.	Prior notice of 2 working days to be given before inspection	Lease deed condition prevails.
30	3(b)	Lessee shall not assign or transfer leased premises or buildings without obtaining prior approval of Lessor	We insist that such approval by Lessor shall not be unreasonably withheld. Additionally assignment to a subsidiary company or a JV where Lessor has a majority stake, Lessee shall not reject such request for assignment and a prior intimation from Lessee shall be sufficient	Subletting of leased premises or structures thereon is not permitted. Assignment to a subsidiary company or a JV where Lessor has a majority stake will not be considered as a sublease.

31	4(d)	Lessor shall be entitled to terminate the lease before expiry of lease period on account of public interest.	The term public interest is too wide. What circumstances can be treated as public interest. Appropriate notice and compensation to be paid to Lessee if lease deed is terminated in exercise of this clause including refund of premium and annual lease rent proportionately.	For the purposes of this Lease Deed the term public interest shall refer to the "interest which the public, the community at large has or some pecuniary interest or some interest by which their legal rights or liabilities are affected". Compensation during termination will be as per clause No. 5(b) of draft lease deed.
32	4(h)	If Lessee commits breach or violates any provision of lease deed Lessor may impose appropriate penalty on Lessee.	Amount of penalty be specified in lease deed.	Lease deed condition prevails.
33	5(a):	Lessor may give notice of 6 months to lessee for termination of lease deed for port activities, Lessee shall be entitled to corresponding remission of lease rent where applicable and compensation payable in respect of buildings and fixtures.	If remission in lease rent shall include refund of upfront premium paid by lessee at the time of bidding?	Yes, on pro rata basis
34	5(b)	The formula for compensation for assets and fixtures.	Does the amount of compensation include the business loss component?	No
35	5(c)	Lessee shall not claim compensation for buildings and fixtures not removed by Lessee as per request of Lessor.	The language is not clear. Does it mean that if Lessor request for certain assets to be left at leased premises, compensation shall not be demanded by Lessee	Compensation towards the buildings/ structures at the time of expiry/termination of lease will be as per clause 5(b).
		The bidder has proposed to include the following clause (S No.36 to 43) into the draft lease deed		The draft lease deed has been approved by Port Trust Board and amendment of the lease deed for the tender is not possible. However CoPT's response to the suggestions are given

S No.	Clause No.	Tender clause	Queries	CoPT's Responses
36			Lessee shall have full and free liberty to erect, install and maintain the Leased Premises all/any equipment, plant, buildings, machinery, tanks, godowns, driveways, tank pits, pumps, filling sheds and other structures, fixtures, appliances and facilities and together also with the right to make all/any alterations/modifications thereto.	The lessee can erect necessary plant/structures in the leased premises for the purpose for which the land is allotted. Permission for same will be given by the Chief Engineer, CoPT on production of drawings and other details. Permission from other statutory agencies, if required shall also be obtained by the lessee, in this regard.
37			Lessee shall have full and free liberty to construct a road or roads on the Demised Premises, erect a compound wall, fencing or railing, lay out a garden and provide such other conveniences as the Lessee may at its discretion desire to provide.	Agreed, subject to approval of Chief Engineer, CoPT and other statutory agencies, if required.
38			The Lessee itself or by or through duly appointed agents/franchisees/Dealer shall, in executing the works aforesaid and at all times during the continuance of this demise, observe and conform to all Rules and Regulations of the Municipal Corporation and/or of all other Authorities, as may be required for the time being relating to buildings.	No comments
39			Lessee shall be entitled to use the Demised Premises and the building/s or structure/s standing thereon for all lawful purposes including for the storage and sale of Petroleum Products, Motor accessories, etc. either by itself or by or through duly appointed agents/franchisees and dealers and for all such purposes the Lessee shall have full liberty to make at its cost excavations therein for the tanks and construct and	The lessee can use the land and structures erected thereon for the purpose for which the land is allotted. In this regard, bidders shall submit the proposed usage of the plot along with the tender.

			to erect thereon buildings or structures, pumping plant and accessories as may be requisite for any lawful purpose of the Lessee.	
40			Lessor covenants that the Demised Premises is free from all claims and encumbrances.	The plots tendered are free from any claims / encumbrances
41			The Lessee shall be at liberty to remove all tanks, buildings or structures, pumps, erections, installations, pipes and pipelines, boundary wall, fencing installed, erected or constructed and brought in by the Lessee notwithstanding that the aforesaid comprise fixtures embedded or attached to the earth and the Lessor shall have no claim thereto in any manner whatsoever. The whole of such tanks, buildings or structures, plant, pipelines, boundary wall as aforesaid shall be and shall remain the property of the Lessee exclusively.	Agreed subject to retaining the land in its original condition
42			The Lessor alone shall bear and pay including Municipal property taxes, holding tax, Non-agricultural assessment fees, outgoing rates, cesses etc. in respect of the said Demised Premises to the concerned Authorities. In the event the Lessor fails to discharge its liability towards payment of any charges including holding tax, Non-agricultural assessment fees, outgoing rates, cesses, by the due date, Lessee shall have an option to pay the same to the respective Government or Municipal Authorities on behalf of Lessor and recover or adjust the same from the the Lease Rent or any other dues payable by Lessee to the Lessor.	Payment of all taxes, duties, fees, cesses, etc in respect of the leased premises and the structures erected thereon shall be borne by the lessee during the entire period of lease.

43			The parties hereto unconditionally and irrevocably agree to submit to the exclusive jurisdiction of the competent courts in Cochin only with regard to any question or matter arising out of this Lease and any other documents that may be executed by the Parties hereto or any of them in pursuance hereof or arising herefrom. This Agreement shall be governed by the laws of India.	Agreed.
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Note: This document is also form part of the tender document

**Sd/-
Secretary**