

New Mangalore Port Trust (Licensing of stevedoring and shore handling) Regulation, 2019

UNION OF INDIA

India

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Rule

NEW-MANGALORE-PORT-TRUST-LICENSING-OF-STEVEDORING-AND-SHORE-HANDLING-REGULATION, 2019

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New Mangalore Port Trust (Licensing of stevedoring and shore handling) Regulation, 2019 Published vide Notification No. G.S.R. 228(E), dated 19.3.2019 Last Updated 22nd March, 2019 G.S.R. 228(E). - In exercise of the powers conferred by sub-section(1) of section 124 read with sub-section (1) of section 132 of the Major Port Trusts Act, 1963 (38 of 1963), the Central Government hereby approves with modification the New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019, made by the Board of Trustees of the New Mangalore Port Trust under section 123 and published by it as required under sub-section(2) of section 124 of the said Act, as set out in the Schedule annexed to this notification.

2. The said regulation as approved shall come into force from the date of publication of this notification in the official Gazette.

Schedule

In exercise of the powers conferred by section 123 of the Major Port Trusts Act, 1963 (38 of 1963) the Board of Trustees of the New Mangalore Port Trust hereby makes the following regulations, in supersession of the New Mangalore Port Trust (Licensing of Stevedores) Regulation, 2009, except as respects things done or omitted to be done before such supersession, namely: -

1. Short title and commencement.

(1) These regulations may be called the New Mangalore Port Trust (Licensing of stevedoring and shore handling) Regulation, 2019. (2) They shall come into force on the date of publication of the approval thereto by the Central Government in the Official Gazette.

2. Definitions.

- In these Regulations, unless the context otherwise requires, -(a) "Act" means the Major Port Trusts Act, 1963 (38 of 1963); (b) "agent" means a person to whom stevedoring and shore handling licence has been issued under regulation 6; (c) "Board" means the Board of Trustees of the New Mangalore Port Trust constituted under the Act; (d) "Chairman" means the Chairman of the Board; (e) "Form" means a form appended to these regulations; (f) "port" means the New Mangalore Port; (g) "licence" means a stevedoring and shore handling licence issued under regulation 6; (h) "royalty" means the amount fixed by the Board which is payable by an agent to the Board for rendering stevedoring and shore handling services; (i) "shore Handling activities" include arranging and receiving the cargo to or from the hook point, intermodal transport from wharf to stack yard and vice-versa and also receiving and delivering of cargo from or to wagons or trucks; (j) "stevedoring activities" include activities carried on board involving workmen, extending to hooking for loading cargo and unhooking of unloading cargo; (k) "tariff authority" means the Tariff Authority for Major Ports constituted under section 47A of the Act; (l) "traffic manager" means the officer in charge of traffic department of the New Mangalore Port Trust and includes his deputies or assistants or any other officer acting under his authority; (m) Words and expressions used herein and not defined but defined in the Act shall have the same meaning as assigned to them in the Act.

3. Application.

- These regulations shall apply to the stevedoring activities on board and shore handling activities on shore undertaken by the agent, but shall not apply to such activities undertaken either by the Board or by any person with whom Public Private Partnership agreement or Build-Operate-Transfer agreement or such other agreement has been entered into by the Board.

4. No person to undertake stevedoring or shore handling activities without licence.

- No person shall undertake to perform the stevedoring and shore handling activities in the port unless he has been issued a valid licence under these regulations: Provided that a person to whom licence has been issued prior to the coming into force of these regulations may continue to operate under the existing licence for a period of sixty days or till he obtains a licence under these regulations, whichever is earlier.

5. Criteria for issue of license.

- A licence for carrying out the stevedoring and shore handling activities may be issued to an applicant who fulfills the following criteria, namely: -(a)the applicant is a company registered under the Companies Act, 2013 (18 of 2013) or a partnership Firm or any other legal entity;(b)the applicant has employed, or submits an undertaking to employ, atleast six supervisory personnel possessing minimum of two years' of experience in cargo handling or stowage;(c)the applicant possesses equipment and gears required for stevedoring activities and shore handling activities, as specified by the Board;(d)the applicant is willing to deposit interest-free refundable security deposit of rupees five lakhs or such higher amount, as the Board may fix, from time to time, to meet any contingency.

6. Issue of licence.

(1)Any person who desires to obtain a licence under these regulations for carrying out the stevedoring and shore handling activities may, at any time, submit an application online in the format available on the website of the Board, or in writing to the Chairman in Form-A, along with the documents specified therein and a fee of rupees fifty thousand or such higher fee, as the Board may fix, from time to time.(2)If the Chairman is satisfied that the applicant fulfills the criteria specified under regulation 5, he may issue licence to the applicant in Form - B or otherwise communicate the order of refusal to the applicant.(3)The licence shall be issued under sub-regulation(2) on payment of security deposit specified in clause (d) of regulation 5.

7. Validity and renewal of licence.

(1)The licence issued under regulation 6 shall be valid for a period of three years from the date of issue of licence unless otherwise specified.(2)An application for renewal of licence may be submitted in Form-A, atleast three months prior to expiry of the licence, along with the documents specified therein and a fee of rupees fifty thousand or such higher fee, as the Board may fix from time to time, and in case of delay, such late fee, as may be fixed by the Board.(3)The licence is liable to be renewed if the applicant fulfills the following conditions, namely: -(a)has complied with the terms and conditions of the licence;(b)has handled a minimum of 50,000 metric tonne of cargo per annum or such other volume of cargo, as the Board may fix, from time to time;(c)has complied with the performance standards notified by the tariff authority;(d)has complied with the safety norms and such compliance has been certified by the inspector appointed under the Dock Workers (Safety, Health and Welfare) Act, 1986 (54 of 1986) in the report submitted to the Chairman.(4)If the Chairman is satisfied that the applicant has fulfilled the conditions specified in sub-regulation (3), he may renew the licence for a further period of three years unless otherwise specified, or otherwise communicate the order of refusal to the applicant:Provided that where the report of the Inspector referred to in clause (d) of sub-regulation (3) is not submitted before the date of expiry of the licence, the Chairman may, if he satisfied that the applicant fulfills all other conditions specified in sub-regulation (3), he may, subject to the agent executing an Indemnity bond in Form-C, renew the licence for a further period of three years unless otherwise specified.(5)In the event of loss or defacing of the original licence, a duplicate licence may be issued if an application in this behalf is

made to the Chairman on payment of Rs.1,000/- or such other amount as the Board may fix from time to time.

8. Performance Standards and tariff for stevedoring and shore handling activities.

(1)The Board shall from time to time specify the performance standards to be followed by the agents for carrying out stevedoring and shore handling activities in the port.(2)The Board may, for the purpose of encouraging compliance with the performance standards specified by it, fix incentives for the agents and specify penalty for non-performance and may publish monthly summary of performance achieved by the agents on its website.(3)The tariff authority shall, on the basis of performance standards specified by the Board under sub-regulation (1), fix and notify tariff separately for mechanized and manual operations of stevedoring and shore handling activities in the port and such tariff shall be the ceiling rates applicable in the port.(4)While notifying the tariff under sub-regulation (3), the tariff authority shall also notify the performance standards specified by the Board under sub-regulation (1).(5)No agent shall charge tariff exceeding the ceiling rates notified by the tariff authority.(6)A nodal officer appointed by the Chairman shall be responsible for - (a)ensuring compliance of the stevedoring and shore handling tariffs by the agents;(b)examine complaints received on violation of tariff notification or imposition of higher charges than the ceiling rates; and(c)submit report to the traffic manager on the contraventions committed by any agent.

9. Payment of Royalty.

(1)The Board shall, in respect of the licence issued by it, charge a royalty as the licence fee on per ton basis fixed by the Board and no discrimination shall be made in charging such royalty for the same type and quantity of cargo handled by the agents.(2)Every agent shall be liable to pay royalty in advance, prior to calling of the vessel, on the basis of import general manifest quantity, in case of import and on the basis of the quantity declared by the vessel's agent or exporter or export general manifest, in case of export and the actual royalty payable shall be calculated after completion of the vessel's operation based on the total quantum of cargo handled by the agent.(3)The difference in amount of royalty, if any, shall be payable within ten days from the date of raising of the bill and in case of delay in payment of royalty, interest shall be payable as specified in the scale of rates of the port;(4)The Board may consider the waiver of royalty in following circumstances, namely:-(a)cargo handled by the agents during the period of strike called by the registered cargo handling workers of the port;(b)relief cargo handled during the natural calamities;(c)defence cargo handled during the emergencies and war like situations;(d)if such direction is issued by the Government.

10. Duties and responsibilities of agents.

- Every agent shall perform the following duties and have the following responsibilities, namely, - (a)submit to the traffic department a daily performance report online;(b)comply with applicable safety norms specified under any law for the time being in force in relation to his

activity;(c)indemnify the Board against all third party claims arising out of his operations;(d)ensure that the casual workers deployed by him are covered by the insurance policy and other benefits under applicable law;(e)if any gear, plant or any other property of the Board is damaged in the course of stevedoring and shore handling operations, he shall compensate the Board for such loss or damage;(f)ensure compliance with the terms and conditions of the license;(g)achieve the performance standards fixed by the Board from time to time;(h)shall pay all the dues of the Board including charges for services availed from the registered cargo handling workers and the interest as specified in the scale of rates;(i)shall publish the tariff charged by it, which shall not exceed the ceiling rates fixed by tariff authority and upload the same on its website;(j)ensure publication of its tariff on the website of the Board.(k)impart training on the periodical basis in modern methods of cargo handling to the personnel deployed for stevedoring and shore handling activities for improving the productivity, efficiency and safety in handling stevedoring and shore handling activities.

11. Duties of Traffic Manager.

(1)The traffic manager shall be responsible for monitoring and ensuring compliance of the terms and conditions of the licence issued to the agents and also of the safety norms to be followed by such agents.(2)In case of any default in the compliance of the terms and conditions of the licence or in following of the safety norms by any agent, the traffic manager shall, in the event of first such default, cause a warning to be issued to such agent and in the event of subsequent defaults, submit a report to the Chairman stating details of non-compliance and recommending penal action to be taken against the agent, including cancellation of the licence and forfeiture of security deposit

12. Deployment of workers of Board, Dock Labour Board, license holder or other source.

- The agent shall deploy the workers of the Board in accordance with the law for the time being in force and in case the Board is unable to supply the workers as sought by the agent, the Board may allow the agent to make its own arrangement and in such case, no charges shall be leviable by the Board.

13. Suspension and cancellation of licence.

(1)The Chairman may review the performance of the agents every month and in case he deems it necessary, he may, by an order in writing, and for reasons to be recorded, suspend or cancel the licence issued by him on any of the following grounds, namely: -(a)the performance standards has not been achieved for an average period of three months;(b)has been charging tariff higher than the ceiling rates approved by the tariff authority;(c)has been handling cargo less than the volume as specified in clause (b) of sub regulation(3) of regulation 7, consecutively for a period of two years;(d)has been convicted by the Court for an offence involving moral turpitude;(e)has contravened safety regulations and failed to comply with the mandatory dock safety measures;(f)has failed to adopt proper and safe handling methods;(g)has been guilty of misrepresentation or

misstatement of material facts;(h)has been adjudged insolvent or is in liquidation;(i)has transferred the licence or sub-contracted with any other person for operating the stevedoring and shore handling activities;(j)has failed to comply with security rules, instructions or International Ship and Port Facility Security Code;(k)has failed to submit daily performance report;(l)has indulged in illegal or corrupt practices;(m)has been guilty of misconduct which in the opinion of the Board, warrants cancellation or suspension of license:Provided that no such licence shall be cancelled or suspended until the holder of the licence has been given a reasonable opportunity for showing cause why his licence should not be cancelled or suspended on such ground.

14. Appeal.

- A person who is aggrieved by the order of refusal to issue of licence under regulation 6 or by the order of refusal to renew licence under regulation 7 or by the order of suspension or cancellation under regulation 13 may prefer an appeal to the Central Government within thirty days of the receipt of the order appealed against.

15. Refund of security deposit.

- The security deposit is liable to be refunded to the agent, after making adjustments of the claims of the Board, if any, in the following circumstances, namely: -(a)on the expiry of the period of licence and no application has been made for renewal;(b)on the refusal of the application for renewal of licence;(c)on cancellation of licence; and(d)If the agent desires to foreclose the licence issued to him and makes an application in writing to the Chairman for foreclosure and refund of security deposit.

Form - ANew Mangalore Port TrustTraffic DepartmentPanambur, Mangalore - 575 010
Application Form For Issue or Renewal of Stevedoring and Shore Handling Licence Under The New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019.

Sl. No.	Description	Details To Be Filled By The Applicant
1	Name of the applicant	
2	Whether the applicant is a company registered under the Companies Act, 2013 or a partnership firm or has any other legal entity (documentary proof to be attached)	
3	Address for Communication	
4	Applicant's PAN No. or TIN No.	
5	Applicant's GSTIN No.	
6	Contact number of applicant	
7	Name of the person to be contacted and mobile No.	
8	E-mail and fax No. of the applicant	
9	Period for which licence is required	

- 10 Name(s) of the steamship or company or charterer of ship or owner of cargo, with whom the contract for stevedoring and shore handling of cargo is finalized or is proposed to be entered into (enclose copy of contract). Approximate tonnage for each party is to be indicated.
- 11 Previous experience in stevedoring activities and shore handling activities (enclose proof of the cargo and tonnage handled in the previous three years)
- 12 Whether the applicant has financial capability to meet any obligation that may arise on account of payment of compensation under the Employee's Compensation Act, 1923 (enclose solvency certificate for rupees ten lakhs from the banker to show financial capabilities and income tax returns of previous three years).
- 13 Whether the applicant possesses equipment and gears required for stevedoring activities and shore handling activities (enclose list of equipment and gears with safety certificate)
- 14 Whether the applicant has employed or is willing to give an undertaking to employ at least six supervisory personnel possessing minimum two years' of experience in cargo handling and stowage required for undertaking the stevedoring activities and shore handling activities (enclose list of employees, their detailed profile including work experience)
- 15 Whether the applicant has made payment of application fee as specified in regulation 6/ regulation 7 to the Financial Adviser and Chief Accounts Officer of the Board for issue / renewal of license (enclose proof of payment)
- 16 In the event of issue of license, whether the applicant is willing to pay security deposit as specified in regulation 6.
- 17 Whether the applicant has cleared all dues in respect of earlier transactions, if any, with the Board (enclose copies of no due certificates from the concerned authorities of the Board)
- 18 In case of renewal of licence, enclose safety clearance certificate granted by inspector of dock safety. If not, enclose duly executed original indemnity bond as in Form -C.

I/We, affirm that the particulars given above are true to the best of my /our knowledge and belief. I/We, agree to pay the royalty amount as license fee as specified by the Board, charges payable to the registered cargo handling workers and charges for any other services of the Board availed by me/us for undertaking stevedoring and shore handling operations at New Mangalore Port. I/we, agree to furnish any other information / produce any record for inspection as may be required by the concerned authority for issue / renewal of licence. I/We, agree to abide by the New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019, as amended from time to time and to comply with the directions issued by the Board from time to time, if the licence is issued or renewed in my / our favour. I/We, hereby declare that, I/We have not been convicted for any offence involving moral turpitude and enclosed the certificate as in Appendix-I. I/We, hereby undertake that, I/We shall charge the rates for services rendered not exceeding the ceiling rates notified by the tariff authority. Place : Date : signature of applicant with office seal

Appendix-I Declaration I, the chief executive officer of

the..... (name of the applicant) hereby declare that the directors, chief executive officer, partners and proprietors of the firm or management are:(a)not convicted by the Court for any offence involving moral turpitude;Or(b)convicted by the Court for an offence involving moral turpitude, but a period of five years has elapsed from the date of expiry of sentence. (details of the name and designation of the person who has been convicted, nature of offence, date of sentence, period of imprisonment, etc., shall be furnished by the chief executive officer.)SignatureSeal of the Company*Strikeout option (a) or (b) as the case may beForm - BLicence For Undertaking Stevedoring and Shore Handling Activities At New Mangalore Port TrustIssued under New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019(Non Transferable)Licence No.....

1. Name of the Licensee.....

2. Address.....

**3. Period for which the licence is granted from
.....to.....**

4. Any other particulars required to mentioned

ChairmanNew Mangalore Port TrustConditionsThis licence is granted subject to the provisions of the Major Port Trust Act, 1963 (38 of 1963) and New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019 as amended from time to time. Every stevedoring and shore handling agent shall be subject to the duties, obligations and responsibilities imposed under New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019 and more specifically the following:(a)The stevedoring and shore handling agent and all its staff and workers engaged for undertaking stevedoring and shore handling activities and work incidental thereto will ensure compliance with the provisions of the Dock Workers (Safety, Health and Welfare) Act, 1986 and the Dock Workers (Safety, Health and Welfare) Regulations, 1990 and notifications issued there under, the Industrial Disputes Act, 1947, the Minimum wages Act, 1948, payment of Bonus Act, 1965, Employees' Provident Funds Act, 1952, Employees' State Insurance Act, 1948 and any other law/ statutes relating to such operations / labour / equipment for the time being in force;(b)The stevedoring and shore handling agent shall deploy necessary equipment as will be specified by the Board and carry out the operations with the gears and equipment owned or hired by them;(c)The stevedoring and shore handling agent shall be solely responsible for any accident or damage or loss or claims resulting from or arising out of operations performed by them;(d)The stevedoring and shore handling agent shall comply with all accepted safe practices and norms during operations performed by them;The stevedoring and shore handling agent shall indemnify the Board against all third party claims arising out of operations performed by them;(e)Whenever the Board has to pay compensation to any of its employees or workers or his dependents under the provision of the Employee's Compensation Act, 1923, in consequence of any accident arising out of and during the course of work performed by a stevedore and shore handling agent or any of its

employees and workers, the stevedoring and shore handling agent shall reimburse the Board any sum so paid for any such purpose. The quantum of compensation as determined under the Employee's Compensation Act, 1923, shall be taken as binding and conclusive between the Board and the stevedoring and shore handling agent;(f)If any gear, equipment, plant and other property of the Board is damaged in the course of any such operation, the stevedoring and shore handling agent shall compensate Board for such loss or damage, the extent of which shall be decided by the Chairman or his authorized officer after carrying out a proper enquiry and valuation of the property and extent of damage;(g)The stevedoring and shore handling agent shall communicate promptly any information relating to the stevedoring and shore handling activities undertaken by them or matters related therewith as and when asked for the authorized representative of the Board;(h)The stevedoring and shore handling agent shall carryout adequate supervision over the workers employed by him in order to ensure maximum productivity consistent with the requirements of safety;(i)The stevedoring and shore handling agent shall provide all the necessary gears and equipment duly tested and certified by the competent authority for handling different types of cargo;(j)The stevedoring and shore handling agent shall produce the necessary annealing and test certificates for gears and equipment deployed by them for periodic inspection or as and when demanded by the Inspector, Dock Safety or the Traffic Manager;(k)The stevedoring and shore handling agent shall provide the workers necessary personal protective equipment and safety appliances, appropriate for the type of cargo;(l)The stevedoring and shore handling agent shall ensure that the workers are available at the worksite throughout the shift period, except during the recess hours and render the normal output and shall take effective steps to improve the performance whenever output falls below the stipulated norms;(m)The stevedoring and shore handling agent shall make adequate arrangements for ancillary operations such as sweeping, filling, stitching, repairing, vessel's stenciling, securing and breaking of cargo, stacking and stowage of cargo, etc required for cargo operation on board the vessels as well as onshore, as the case may be. These ancillary services shall not be separately charged and shall be inclusive in the stevedoring and shore handling rates notified by tariff authority;(n)The stevedoring and shore handling agent shall ensure that all dues of the Board are paid within the specified period failing which the licence may be liable to be cancelled under these regulations. Licence shall not be considered for renewal if any dues payable to the Board remains outstanding;(o)Stevedoring and shore handling agents shall remit in advance the royalty to the Board prior to calling of the vessel.(The discounts and deferments, if any, offered by the agent to its principals or amounts if any not collected by such agent for any reason whatsoever in respect of the stevedoring and shore handling services under these regulations, shall not be recognized for the purpose of calculation of dues of the Board on account of royalty);(p)The stevedoring and shore handling agent shall undertake to pay wages to workers engaged by him from the Board, in accordance with the terms of settlement agreed between the Central Government and the Federation of Port and Dock workers from time to time or at the rates fixed by the Board for the purpose;(q)The stevedoring and shore handling agent shall not assign, transfer or in any manner part with any interest or benefit in or under the licence to any other person;(r)The stevedoring and shore handling agent shall comply with all rules and regulation of the Board and such instruction as may be issued from time to time by the traffic manager in the interest of safety, improvement in productivity and labour discipline;(s)Whenever casual workers are deployed, stevedoring and shore handling agent should ensure that such workers are covered by insurance policy;(t)The stevedoring and shore handling agent shall achieve the performance standards fixed by the Board;(u)The

stevedoring and shore handling agent shall publish the tariff charged by it and uploaded it on its own websites and ensure publishing on the Board's website. The charges leviable shall not exceed the ceiling rates prescribed by tariff authority. Acceptance I/We accept this stevedoring and shore handling licence issued to me/ us on this day theunder the terms and conditions stated as above.

date:(Official seal)

signature
and design

address:.....contact

No:.....witness to the signature:1.2.

Form - C Indemnity Bond Format of indemnity bond for renewal of Stevedoring and Shore Handling Licence pending submission of Safety Clearance. From Dock safety To be furnished in the Stamp paper as per Stamp Act (Submit on Stamp paper of value not less than Rs.200/-) This Indemnity Bond executed on this day of Two thousand and, by M/s. (herein after referred to as the "Indemnifier") which expression shall mean and include their heirs, legal representatives, successors, executors, administrator and assignees in office, in favour of the Board of Trustee, New Mangalore Port Trust, Panambur, Mangalore - 575 010 represented by, their Traffic Manager (hereinafter referred to as "the Board") which expression shall mean and include their legal representatives, successors and assignees in office; Whereas, the Indemnifier has requested for renewal of Stevedoring and Shore Handling Licence in accordance with New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019 to carry out the work of stevedoring and shore handling activities at New Mangalore Port Trust, Panambur, Mangalore beyond the period of three years w.e.f.; And whereas, the Indemnifier has submitted application for renewal of stevedoring and shore handling licence along with application fee, requisite documents and specified security deposit; Whereas, the Indemnifier fulfill the required conditions and eligible for renewal of Licence, but awaiting safety clearance certificate; Whereas, the Indemnifier has submitted an application for issue of safety clearance certificate to the Dy. Director of Dock Safety, New Mangalore Port Trust, Panambur vide their application No:..... dated..... Whereas, the Indemnifier has executed this Indemnity Bond for renewal of the stevedoring and shore handling licence till such time of receiving the safety clearance certificate. Whereas, thus the Indemnifier more fully understand the duties and responsibilities as provided in regulation 10 of, and the terms and conditions specified in, the New Mangalore Port Trust (Licensing of Stevedoring and Shore Handling) Regulation, 2019, and willing to abide by such duties, responsibilities and conditions. Now therefore, the indemnifier execute this Indemnity Bond for guarantee to protect the interest of the Board against any legal, financial, statutory or third party claim enforced against Board through order or direction of any executive, judicial, quasi judicial authority for the reasons of violation of extant safety norms of Inspectorate of Dock Safety and not obtaining safety clearance by indemnifier. The indemnifier shall reimburse to New Mangalore Port Trust the entire amount towards any compensation, claim and damage cost which may be caused by it to any person and / or property of the Board and to make good Board's claim in respect of any and all damages so caused by it or its personnel or equipment or gears to any Board's property and / or in respect of his obligations emanated from the licence already referred. This Indemnity Bond shall remain valid and be enforceable till the date of submitting the

valid safety clearance certificate issued by the competitive authority. In Witness Whereof, the Indemnifier has hereto signed, sealed and delivered these presents on the day, month and year first above written. For and on behalf of In the presence of witness: (1)(2)