

CONCESSION AGREEMENT

BETWEEN

BOARD OF TRUSTEES FOR VISAKHAPATNAM PORT
(THE CONCESSIONING AUTHORITY)

AND

WEST QUAY MULTIPORT PRIVATE LIMITED
(THE CONCESSIONAIRE)

FOR

DEVELOPMENT OF WQ-6 BERTH IN THE NORTHERN ARM
OF INNER HARBOUR OF VISAKHAPATNAM PORT FOR
HANDLING DRY BULK CARGO ON 'DBFOT' BASIS

DATED 31st July 2010

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CONCESSION AGREEMENT

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General Stamp Office, Mumbai

LSV No. 207

MAHARASHTRA

22 JUL 2010

Proper Officer

M. D. KADAM

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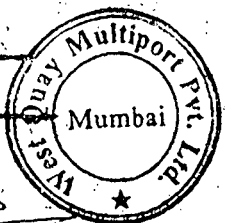
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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is made at Visakhapatnam, Andhra Pradesh on this 31st day of July 2010

BETWEEN:

1. BOARD OF TRUSTEES for VISAKHAPATNAM PORT, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at Visakhapatnam, Andhra Pradesh, India, hereinafter referred to as "the Concessioneing Authority" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

AND

2. WEST QUAY MULTIPOINT PVT. LTD., a company registered under the Companies Act, 1956, and having its registered office at 5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai - 400 004, India hereinafter referred to as "the Concessionaire" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns).

For West Quay Multiport Pvt. Ltd.

Authorised Signatory


Dy. Chairman / उपाध्यक्ष
विशाखपट्टणम पोर्ट ट्रस्ट
Visakhapatnam Port Trust

WHEREAS:

- (A) The Concessioneing Authority is desirous of implementing a Project (as defined hereinafter) for *planning, engineering, designing, finance, construction, development, operation & maintenance of WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo such as C.P. Coke, LAM Coke, Steel and Granite blocks on DBFOT basis* through private sector participation;
- (B) In or about May 2008, the Concessioneing Authority invited applications from the interested parties in accordance with the Request for Qualification (as defined hereinafter), to shortlist competent parties that can subsequently bid for the Project;
- (C) In response to the invitation referred to in recital 'B' above, the Concessioneing Authority received applications from various parties including the application dated 31.07.2008 submitted by the Applicant / Consortium in accordance with the Request for Qualification;
- (D) The Concessioneing Authority, after evaluating all the applications, short-listed 6 (Six) number of applicants including the Applicant / Consortium and invited proposals from them in accordance with the Request for Proposal (as defined hereinafter), for implementing the Project;
- (E) In response to the Request for Proposal, the Concessioneing Authority received proposals from the shortlisted applicants including the one submitted by the Applicant / Consortium;
- (F) The Concessioneing Authority, after evaluating all the proposals received by it from the shortlisted applicants, accepted the proposal referred to in recital "E" above submitted by the Applicant / Consortium and communicated its acceptance to the Applicant / Consortium vide Letter of Intent for Award of Concession dated 18.01.2010;
- (G) The Applicant / Consortium has / have incorporated the Concessionaire as a special purpose company in India, under the Companies Act, 1956 to implement the Project;
- (H) Following the issue of the Letter of Intent for Award of Concession, the Concessioneing Authority has agreed to grant the Concession to the Concessionaire to implement the Project on the terms, conditions and covenants hereinafter set forth in this Agreement.

For West Quay Multiport Pvt. Ltd.

Authorised Signatory


Dy. Chairman / **उपाध्यक्ष**
विशाखपट्टनम पोर्ट ट्रस्ट
Visakhapatnam Port Trust

NOW, THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires the following terms shall have the following meanings assigned / ascribed thereto:

"Actual Project Cost" means the actual capital cost incurred by the Concessionaire on the Project and / or the Project Facilities and Services as certified by the Statutory Auditor and if the same exceeds the Estimated Project Cost and / or does not form part of the Financing Plan submitted prior to Financial Close, the amount of the Estimated Project Cost or in the Financing Plan as the case may be increased by the amount(s) approved in writing by the Concessioneing Authority.

"Additional Auditor" has the meaning ascribed to it in Article 9.4.

"Additional Cost" means the additional capital expenditure which the Concessionaire has or would be required to incur and which has arisen as a result of Change in Law.

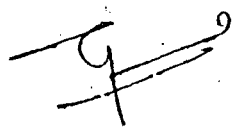
"Affiliate" means, with respect to any Party and / or with respect to the Applicant and / or with respect to any member of Consortium, any other Person directly or indirectly controlling, controlled by or under common control with such Party, Applicant and / or member of Consortium. For the purposes of this definition, the term "control" (including with correlative meaning, the terms "controlled by" and "under common control with") as applied to any Party or Applicant or a member of Consortium, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Party or Applicant or a member of Consortium whether through ownership of 50 (fifty) % or more of the voting securities, by contract, or otherwise.

"Agreement" means this agreement as of date hereof, including Appendices 1 through 17 as may be amended, supplemented or modified in accordance with the provisions hereof.

"Appendix" means the schedules, supplements or documents, appended to this Agreement.

"Applicable Laws" means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including statutes, rules, regulations, directions, bye-laws, notifications, ordinances and judgments having force of law, or any final interpretation by a Court of Law having jurisdiction over the matter in question as may be in force and effect during the subsistence of this Agreement.

"Applicable Permits" means any and all permissions, clearances, licenses, authorizations, consents, no-objections, approvals and exemptions under or



pursuant to any of the Applicable Laws or from any Government Authority required in connection with the Project and for undertaking, performing or discharging the obligations contemplated by this Agreement or any other Transaction Document.

"Applicant" means ABG Infralogistics Ltd. having its registered office at 5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai – 400 004, India.

"Access / Entrance channel" means the waterway that gives access or passage to harbour, channels, berths etc. Visakhapatnam Port has an Outer entrance channel, which is located on the east side of the breakwaters. Vessels bound for WQ-6 berth utilize the same channel including Outer Turning Basin, Inner Channel, Inner Turning Basin and Northern Arm of Port Waterways.

"Bid" means the proposal and the entire set of documents submitted by the Applicant and / or the Consortium in response to the RFQ and the RFP.

"Bid Security" means the bank guarantee bearing number 0106IPEBG100280 dated 28.05.2010 (Issued by Bank of India, Mumbai Corporate Banking Branch, Mumbai, furnished by the Applicant / Consortium along with its Bid.

"Board" means the Board of Trustees for the Port of Visakhapatnam.

"Book Value" means the aggregate written down value as on the date of issue of the Termination Notice in the books of the Concessionaire of (i) the tangible assets (including capital works in progress) forming part of, fixed or attached to the ground, created, installed or provided by the Concessionaire and comprised in Project Facilities and Services, which in the reasonable judgement of an Expert are capable of being put to use / utilized by the Concessioneing Authority, and (ii) the moveable assets including cargo handling equipment belonging to the Concessionaire, which the Concessioneing Authority agrees to take over, in accordance with Indian Accounting Standards using depreciation rates as set forth in the (Indian) Companies Act, 1956, as applicable from time to time.

"Change in Law" shall have the meaning set out under Article 13.1 of this Agreement.

"Change of Scope" shall have the meaning assigned to it under Article 6.8(a).

"Change of Scope Notice" shall have the meaning assigned to it under Article 6.8(b).

"Completion Certificate" shall have the meaning assigned to it under Article 6.3.

"Concession" means the Concession granted by the Concessioneing Authority to the Concessionaire in accordance with the provisions of Article 2.1 of this Agreement for implementing the Project and providing Project Facilities and Services.

"Concessioning Authority Event of Default" shall have the meaning as set out under Article 15.1(b).

"Concessionaire Event of Default" shall have the meaning as set out under Article 15.1 (a).

"Concession Period" means the period of the Concession specified in Article 2.2 of this Agreement.

"Conditions Precedent" shall mean the conditions prescribed in Article 3 of this Agreement.

"Consortium" Not Applicable

"Construction Phase" means the period from the Date of Award of Concession to the Date of Commercial Operation.

"Construction Works" means all works, equipments and things necessary to complete the Project and provide the Project Facilities and Services in accordance with this Agreement.

"Construction Standards" means the construction standards set out in the annexure to Appendix 4.

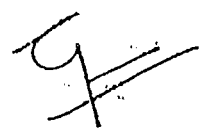
"Consultation Notice" has the meaning ascribed to it in Article 15.3.

"Contractor" means a Person with whom the Concessionaire has entered into / may enter into a contract relating to the execution of any works and / or operation and maintenance of the Project Facilities and Services, including the Management Contractor.

"Date of Award of Concession" means the date when the Conditions Precedent have either been satisfied or waived by the Party other than the Party responsible for satisfying the same.

"Date of Commercial Operation" means the date on which the Concessionaire receives the Completion Certificate in accordance with the provisions of this Agreement / MPT Act.

"Day" means the 24 (twenty four) hour period beginning and ending at 12:00 night Indian Standard Time.



"Debt Due" means the aggregate of the following sums representing the amounts advanced by the Lenders towards Actual Project Cost, expressed in Indian rupees as may be outstanding and payable to the Lenders under the Financing Documents on the Transfer Date:

- (a) the principal amount of the debt including any subordinated debt provided by the Lenders under the Financing Documents for financing the Project ("the Principal") but excluding (i) working capital loans; (ii) any part of the Principal that had fallen due for repayment one year prior to the Transfer Date, if the Transfer Date is related to expiry of the Concession Period or any part of the Principal that had fallen due prior to the Termination Notice, if the Transfer Date is related to termination prior to the expiry of the Concession Period; and (iii) any debt that has been rescheduled or refinanced, unless such repayment had been rescheduled or refinancing made with the prior consent of Concessioneing Authority; and
- (b) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub-clause (a) above upto the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, and (ii) penal interest or charges, payable under the Financing Documents to any Lender.

"Designs and Drawings" means the designs and drawings, and other technical information submitted by the Concessionaire from time to time and reviewed by the Independent Engineer in accordance with the provisions of this Agreement.

"Encumbrance" means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances and encroachments on the Project Site / Port's Assets / Project Facilities and Services.

"EPC Contract" means the contract entered into by the Concessionaire with one or more Contractors inter-alia for the purpose of design, engineering, procurement of equipment and materials (including by import thereof) and construction of the Project in accordance with the provisions of this Agreement.

"Environmental Law" means any statute, rule, regulation, ordinance, code, guideline or policy having the force of law, in each case, applicable to the Project now or hereafter in effect and any applicable judicial or administrative interpretation, pronouncement, order, decree or judgment, relating to the environment, health and safety.

"Equity" means the paid up share capital of the Concessionaire representing the equity component of the Actual Project Cost, as capitalized in the books of the Concessionaire and duly certified by the Statutory Auditors.

"Equity Documents" means collectively the documents evidencing subscription to Equity to the extent of equity component of cost of the Project.

"Escrow Account" shall have the meaning assigned to it under Article 9.5.

"Escrow Agreement" means the agreement to be executed *inter alia* between the Concessionaire, the Concessioneing Authority and the Lenders / Lenders representative substantially in the format set out in Appendix 16 hereto.

"Estimated Project Cost" means the sum of Rs.1145 (Rupees one thousand one hundred forty five) million being the cost of the Project as estimated by the Concessioneing Authority and disclosed in the Request for Proposal.

"Event of Default" shall have the meaning assigned to it under Article 15.1.

"Exclusivity Period" shall have the meaning ascribed to it in Article 12.2(c).

"Expert" means any person, body or organization of repute with recognized technical / professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement.

"Financial Assistance" means all funded and non-funded credit assistance including but not limited to loans, advances, lease assistance and guarantees required for the Project.

"Financial Close" means the date on which the Financing Documents providing for Financial Assistance by the Lenders, Equity Documents and the documents in respect of debt, if any, committed by the Applicant / Consortium have become effective and the Concessionaire has access to such Financial Assistance.

"Financial Year" means any twelve month period commencing from 1st April and ending on 31st March.

"Financing Documents" means, collectively, the documents executed in favour of or entered into with the Lenders, by the Concessionaire in respect of the Financial Assistance relating to the financing (including any re-financing) of the Actual Project Cost and includes any document providing security for the Financial Assistance.

"Financing Plan" means the financing plan as envisaged under the Financing Documents for financing the cost to be incurred for implementing the Project submitted by the Concessionaire in accordance with Article 3.1(a)(vii).

"Force Majeure Event" shall have the meaning ascribed to it in Article 14.1 of this Agreement.

"GoI" means the Government of India.



"Good Industry Practice" means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced operator engaged in construction, operation and maintenance of facilities, equipment or systems of the type and size similar to the Project Facilities and Services.

"Government Authority" means GoI, any state government or any governmental department, commission, board, body, bureau, agency, authority, instrumentality, administrative body, at central, state, or local level, having jurisdiction over the Concessionaire, the Port's Assets, the Project Facilities and Services or any portion thereof, but shall not include the Concessioneing Authority.

"Gross Revenue" means all the revenues chargeable by the Concessionaire from the Project / Project Facilities and Services.

"Independent Engineer" means a Person appointed in accordance with Article 5.1 for supervision and monitoring of compliance by the Concessionaire with the project Requirements, more particularly to undertake, perform, carry out the duties, responsibilities, services and activities set forth in Appendix 7.

"Indian Accounting Standards" means the Indian accounting standards issued by the Institute of Chartered Accountants of India.

"Insurance Cover" shall have the meaning ascribed to it in Article 12.1(c)(ii).

"Lenders" means any Persons based in India or abroad providing Financial Assistance under the Financing Documents and includes a trustee for the holders of debentures / or other debt instruments issued by the Concessionaire to finance Project.

"License Fee" shall have the meaning assigned to it under Article 9.1(a).

"Management Contract" Not Applicable

"Management Contractor" Not Applicable

"Management Control" means the posscession, directly or indirectly of the power to direct or cause the direction of the management and policies of the Concessionaire, whether through the ownership of voting securities, by contract or otherwise or the power to elect or appoint more than 50% (fifty percent) of the directors, managers, partners or other individuals exercising similar authority with respect to the Concessionaire.

"Material Adverse Effect" means material adverse effect on (a) the ability of either Party to exercise any of their rights or perform / discharge any of their duties / obligations under and in accordance with the provisions of this Agreement and / or (b) the legality, validity, binding nature or enforceability of this Agreement.

"Milestone Dates" means the dates for completion of specified Project activities as contained in the Project Schedule.

"Minimum Guaranteed Cargo" shall have the meaning ascribed to it in Article 7.1(a)(xii)

"Month" means the calendar month as per the Gregorian calendar.

"MPT Act" means The Major Port Trusts Act, 1963 as amended, supplemented, re-enacted or replaced from time to time.

"Non Political Events" means the Force Majeure Events set out in Article 14.2.

"O&M Contract" means the contract, if any, entered into by the Concessionaire for the operation and maintenance of the Project in accordance with the provisions of this Agreement and shall include the Management Contract.

"Operations Phase" means the period from the Date of Commercial Operation to the expiry / termination of the Concession Period.

"Operations and Maintenance Standards" means the minimum standards of operations and maintenance set out in the annexure to Appendix 4 with regards the Project Facilities and Services.

"Other Events" means the Force Majeure Events set out in Article 14.4.

"Party" means either the Concessions Authority or the Concessionaire as the context may require or admit and **"Parties"** means both Concessions Authority and Concessionaire.

"Performance Standards" means the minimum standards of performance set out in Appendix 15 with regards the Project Facilities and Services.

"Performance Guarantee" shall mean the bank guarantee(s) / letter(s) of credit procured by the Concessionaire for the benefit of the Concessions Authority guaranteeing the performance of the obligations of the Concessionaire hereunder in the manner specified in Article 4.1.

"Person" means any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or governmental authority or agency or any other legal entity.

"Political Event" means the Force Majeure Events set out in Article 14.3.

"Port's Assets" means the assets set out in Appendix 2, belonging to the Concessions Authority.



"Port Limits" means the boundary of the Visakhapatnam port. It is the waterfront area bounded by the coordinates 17°45'00"N / 83°21'08.5"E, 17°45'00"N / 83°30'21.24"E, 17°34'5.02"N / 83°21'54.51"E, 17°38'34.83"N / 83°15'38.25"E and notified vide Gazette Notification No. 254, dated June 03, 2003 and as amended, supplemented or replaced from time to time.

"Project" means the design, finance, construction, operation, maintenance, and marketing and providing of the Project Facilities and Services in accordance with the provisions of this Agreement.

"Project Capacity" means the capacity of the Project Facilities and Services to handle about 2.08 million tonnes per annum over a period of time, in phases with a projected throughput of 1.1 MT initially.

"Project Contracts" means collectively this Agreement, the EPC Contract, O&M Contract and any other material contract (other than the Financing Documents, the Escrow Agreement, the Substitution Agreement or any commercial agreement with the users) entered into or may hereafter be entered into by the Concessionaire in connection with the Project and Project Facilities and Services.

"Project Facilities and Services" means the facilities and services as set out under the Project Requirements, to be provided by the Concessionaire during the Concession Period, in accordance with this Agreement.

"Project Requirements" means the minimum requirements as to the construction, operation and maintenance of the Project and provision of Project Facilities and Services set out in Appendix 4.

"Project Schedule" means the Appendix 5 hereto.

"Project Site" means the area demarcated in Appendix 1 including the waterfront, existing berth, land together with buildings, structures if any and easement rights thereto that may be given to the Concessionaire and all other assets comprised therein on which the Concessionaire is authorized to develop and operate the Project Facilities and Services as set forth in this Agreement.

"Provisional Certificate" shall have the meaning assigned to it under Article 6.7 (d).

"Punch List" shall have the meaning assigned to it under Article 6.7 (d).

"Pilotage" means Pilotage of vessels from Pilot Boarding Ground i.e., outside the breakwater, to the required berths and vice-versa by the licensed Pilot, who is aware and conversant of local conditions to ensure safe navigation with the help of necessary tugs.

"Quarter" means a period of 3 (three) Months.

"Remedial Period" has the meaning ascribed to it in Article 15.4.

"Request for Proposal" or "RFP" means the Request for Proposal dated 12.08.2009 issued by the Concessions Authority to the applicants short-listed pursuant to the Request for Qualification and includes any addendum / clarifications issued in respect thereof by the Concessions Authority.

"Request for Qualification" or "RFQ" means the Request for Qualification dated May 2008 issued by the Concessions Authority inviting applications in accordance therewith for shortlisting the competent applicants that can subsequently bid for the Project, and includes any addendum / clarifications issued in respect thereof by the Concessions Authority.

"Requisition" has the meaning ascribed to it in Article 16.3.

"Royalty" means the gross revenue share payable by the Concessionaire to the Concessions Authority, pursuant to Article 9.2 hereof.

"Safety Standards" means the minimum standards of safety set out in the annexure to Appendix 4 with regards the Project / Project Facilities and Services.

"Scale of Rates" means the scale of rates along with the statement of conditions with respect thereto framed from time to time and notified by TAMP or such other competent authority under the provisions of MPT Act, as applicable.

"Scheduled Project Completion Date" means the date on which the Project is expected to be completed by the Concessionaire as per the implementation schedule set out in Appendix 5.

"Selectee" has the meaning ascribed to it in Article 15.4(b).

"Special Audit" shall have the meaning assigned to it under Article 9.4.

"Statutory Auditors" means a firm of chartered accountants appointed in terms of Section 224 of the Companies Act, 1956 and acting as the statutory auditors of the Concessionaire.

"Substitution Agreement" means the agreement substantially in the form set out at Appendix 3, to be entered into between the Concessions Authority, the Concessionaire and the Lenders.

"Supporting Project Infrastructure" means:

(a) *maritime access channels & port entrance: The entrance channel to the outer harbour is 200m wide and dredged to a depth of 20m. The entrance channel to the inner harbour is dredged to a depth of (-)11.80 / (-)12.10m. initially and (-) 13.50m & (-) 16.10m in phases in future as per the deepening plans of the Concessions authority*

(b) *Shore protection and other protective works;*

access to port for inland transport (including roads, bridges and railways);

and shall include such other facilities as may be specified by the Concessioneing Authority as supporting infrastructure provided / to be provided for the Project.

"SBI PLR" means the prime lending rate of the State Bank of India prevailing as on the date of a payment due from which the computation of interest is required to be made under the Agreement.

"Schedule of Rates" means *Schedule of Rates for land along with the statement of conditions with respect thereto framed from time to time and notified by TAMP or such other competent authority under the provisions of MPT Act, as applicable.*

"TAMP" means Tariff Authority for Major Ports established under the MPT Act.

"Tariff" means the applicable rate(s) as per Scale of Rates that may be charged by the Concessionaire for and in respect of providing the Project Facilities and Services.

"Tariff Notification" means the notifications No.26 dated 24.02.2009 setting out *inter alia* the Tariff and shall include any revisions thereof.

"Termination Notice" means the termination notice issued pursuant to Article 16.1 hereof.

"Termination Period" shall have the meaning as set out under Article 16.1 hereof.

"Tests" shall have the meaning assigned to it under Article 6.7 (a) hereof.

"The Port" means Port of Visakhapatnam.

"Transfer" means to transfer, sell, assign, pledge, hypothecate, create a security interest in or other encumbrance on, place in trust (voting or otherwise), transfer by operation of law or in any other way dispose of, whether or not voluntarily, the legal or beneficial interest in the equity shares of the Concessionaire.

"Transfer Date" means the date of expiry or termination as the case may be, of the Concession Period in accordance with the terms of this Agreement.

"Transaction Documents" means collectively the Project Contracts and the Financing Documents.

1.2 Other References

In this Agreement:

"ASTM" means American Society for Testing and Materials

"BIS" means Bureau of Indian Standards.

"BS" means British Standard.

"CISF" means Central Industrial Security Force.

"DIN" means German Industrial Standard

"DWT" means Dead Weight Tonnage.

"FEM" means Federation of Equipment Manufacturers.

"IS" means Indian Standard.

"ISO" means International Organization for Standardization.

"IEC" means International Electrotechnical Commission.

"km" means Kilometre, the unit of length.

"m" means Metre, the unit of length.

"mm" means Millimetre, the unit of length.

"MT" means Metric Tonne, the unit of weight.

"MoEF" means Ministry of Environment and Forests

"OISD" means Oil Industry Safety Directorate.

"VAT" means Value Added Tax.

1.3 Interpretations

This Agreement constitutes the entire understanding between the Parties regarding the Project and supersedes all previous written and / or oral representations and / or arrangements regarding the Project. If there is any aspect of the Project not covered by any of the provisions of this Agreement, then and only in that event, reference may be made by the Parties to the bid documents, *inter alia* including the RFP and RFQ documents, issued by the Concessions Authority and also including addendums, clarifications given in writing in the pre-bid meetings and the submissions of the Concessionaire and the bid submitted by the Concessionaire but not otherwise. In case of any contradictions in the terms of this Agreement and any such other bid documents as referred to above, the terms of this Agreement shall prevail.

In this Agreement unless the context otherwise requires:

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (b) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);
- (c) the table of contents and any headings in this Agreement are for ease of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) the words "include" and "including" are to be construed without limitation;
- (e) references to "construction" include investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- (f) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (g) any reference to day shall mean a reference to a calendar day;
- (h) any reference to month shall mean a reference to a calendar month;
- (i) "Recital", "Article" and "Appendix" shall refer, except where the context otherwise requires, to Articles of and any Appendix to this Agreement. The Appendices to this Agreement shall form an integral part and parcel of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (j) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or novated at the time of such reference;
- (k) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer and/or a Statutory Auditor shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the Independent Engineer and / or Statutory Auditor, as the case may be, in this behalf and not otherwise;
- (l) unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall

include both such days or dates;

- (m) unless otherwise specified, any interest to be calculated and payable under this Agreement shall accrue on a Monthly basis and from the respective due dates as provided for in this Agreement; and
- (n) any word or expression used in this Agreement , unless defined or construed in this Agreement, shall be construed as per the definition given in General Clauses Act, 1897 failing which it shall bear the ordinary English meaning.

1.4 Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

1.5 Ambiguities and Discrepancies

In case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (a) between two Articles of this Agreement, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
- (b) between the dimension scaled from the Design and Drawings and its specific written dimension, the latter shall prevail;
- (c) between any value written in numerals and that in words, the latter shall prevail; and
- (d) between the provisions of this Agreement and any other documents forming part of this Agreement, the former shall prevail.



ARTICLE 2

CONCESSION AND PORT ASSETS

2.1 Concession

In consideration of the Concessionaire agreeing to pay to the Concessioneing Authority (a) the License Fee and (b) Royalty, and performing its obligations as set out in this Agreement, the Concessioneing Authority hereby grants to the Concessionaire, subject to the provisions of this Agreement, an exclusive license for designing, engineering, financing, constructing, equipping, operating, maintaining, replacing the Project / Project Facilities and Services.

2.2 Concession Period

The Concession hereby granted is for a period of 30 (Thirty) years commencing from Date of Award of Concession during which the Concessionaire is authorized and obliged to implement the Project and to provide Project Facilities and Services in accordance with the provisions hereof.

Provided that: -

- (a) in the event of the Concession being extended by the Concessioneing Authority beyond the said period of 30 (Thirty) years in accordance with the provisions of this Agreement, the Concession Period shall include the period by which the Concession is so extended, and
- (b) in the event of an early termination / determination of the Concession / this Agreement by either Party in accordance with the provisions hereof, the Concession Period shall mean and be limited to the period commencing from the Date of Award of Concession and ending with the date of termination / determination of the Concession / this Agreement.

2.3 Acceptance of the Concession

The Concessionaire hereby accepts the Concession and agrees and undertakes to implement the Project and to provide Project Facilities and Services in accordance with the provisions of this Agreement. Subject to and in accordance with the provisions of this Agreement and Applicable Laws and Applicable Permits, the Concessionaire shall at its costs, charges, expenses and risk including but not limited to foreign exchange variation risk if any, conceptualize, design, engineer, finance, construct, equip, operate, maintain and replace the Project / Project Facilities and Services.

2.4 Port's Assets

- (a) In consideration of the Concessionaire agreeing to perform and discharge its obligations as set forth in this Agreement, the Concessioneing Authority hereby grants to the Concessionaire, the exclusive right to enter upon,

occupy and use the Project Site and Port's Assets for the purpose of implementing the Project and provision of Project Facilities and Services pursuant thereto in accordance with this Agreement.

- (b) The Concessionaire shall at its costs, charges and expenses make such development and improvements in the Project Site and Port's Assets as may be necessary or appropriate for implementing the Project and providing Project Facilities and Services, in accordance with the Agreement, Applicable Laws and Applicable Permits.

2.5 Use of Port's Assets

The Concessionaire shall not without the prior written consent or approval of the Concessioneing Authority use the Project Site and the Port's Assets for any purpose other than for the purposes of the Project / the Project Facilities and Services and purposes incidental thereto as permitted under this Agreement or as may otherwise be approved by the Concessioneing Authority.

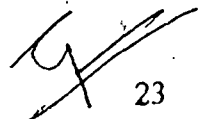
2.6 Information about Project Site and Port's Assets

The information about the Project Site and Port's Assets as set out in Appendix 1 and Appendix 2 respectively is provided by the Concessioneing Authority in good faith and with due regard to the matters for which such information is required by the Concessionaire. The Concessioneing Authority agrees to provide to the Concessionaire, upon a reasonable request, any further information relating to the Project Site and Port Assets, which the Concessioneing Authority may now possess or may hereafter come to possess, as may be relevant to the implementation of the Project. Subject to this, the Concessioneing Authority makes no representation and gives no warranty to the Concessionaire in respect of the condition of the Port Assets or the Project Site.

2.7 Acceptance of the Port's Assets



The Concessionaire accepts possession of the Port's Assets and Project Site on 'as is where is' basis and confirms having:

- (a) inspected the Project Site / Port's Assets, including the berths and all structures thereat and its surroundings;
- (b) satisfied itself as to the nature of the climatic, hydrological and general physical conditions of the Project Site / Port's Assets, the nature of the ground and subsoil, the form and nature of the Project Site / Port's Assets, and the nature of the design, work and materials necessary for the performance of its obligations under this Agreement; and
- (c) obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Concessionaire and its rights and obligations under or pursuant to this Agreement.


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2.8 Peaceful Occupation

The Concessioneing Authority warrants that the Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in occupation of the Project Site and Port's Assets during the Concession Period. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site and Port's Assets or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have charge on the Project Site and Port's Assets or any part thereof pursuant to Section 78 of the MPT Act, the Concessioneing Authority shall, if called upon by the Concessionaire, defend such claims and proceedings.



ARTICLE 3

CONDITIONS PRECEDENT

3.1 Conditions Precedent

The award of the Concession shall be subject to the satisfaction or waiver of the following conditions precedent (the "Conditions Precedent"):

- (a) The following Conditions Precedent shall be satisfied by the Concessionaire:
 - (i) Furnishing of the Performance Guarantee as stipulated in Article 4.1 hereof;
 - (ii) Furnishing of copies (certified as true copies by a director of the Concessionaire) of the constituent documents of the Concessionaire;
 - (iii) Furnishing of all resolutions adopted by the Board of Directors of the Concessionaire (certified as true copies by a director of the Concessionaire) authorizing the execution, delivery and performance by the Concessionaire of each of the Transaction Documents;
 - (iv) Opening the Escrow Account and executing the Escrow Agreement;
 - (v) Not Applicable
 - (vi) Furnishing a certificate from its principal officer / director on the shareholding pattern of the Concessionaire;
 - (vii) Furnishing its Financing Plan and Financing Documents for the Project and demonstrating Financial Close. Provided, Financial Close shall be deemed to be achieved if the only conditions pending for achieving Financial Close are those which are required to be fulfilled by the Concessions Authority under Article 3.1 (b) hereunder;
 - (viii) Procuring and furnishing the following confirmations, in original, from the Applicant / members of Consortium:
 - (a) it / they shall at all times comply with the provisions of Article 11.2 in respect of their shareholding in the Concessionaire;
 - (b) it / they has / have the financial standing and resources to fund / raise finances for undertaking and implementing the Project in accordance with this Agreement;

- (c) the Applicant is / each of the member of the Consortium is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Concessioneing Authority to enter into this Agreement with the Concessionaire and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
 - (ix) Furnishing to the Concessioneing Authority a legal opinion from the legal counsel of the Concessionaire with respect to the authority of the Concessionaire to enter into this Agreement and the enforceability hereof; and
 - (x) Obtaining all Applicable Permits as may be required for commencement of Construction Works, as set out in Appendix 8.
 - (xi) *If required, the Concessionaire shall enter into an Integrity Pact as set out in Appendix 17 with the Concessioneing Authority as per the "Standard Operating Procedure" of Integrity Pact in Major Government Departments / Organisations formulated by the Central Vigilance Commission / Government of India.*
- (b) The following Conditions Precedent shall be satisfied by the Concessioneing Authority:
- (i) procurement of the clearances required for the Project, as set out in Appendix 8;
 - (ii) handing over physical possession of the Project Site and / or the Port's Assets for the purposes of the Project;

3.2 The aforesaid Conditions Precedent shall be complied with within 90 (ninety) Days of the date of the Agreement. Each Party shall promptly inform the other Party in writing when the Conditions Precedent for which it is responsible have been satisfied.

3.3 Any of the Conditions Precedent set forth in Articles 3.1(a) may be waived fully or partially by the Concessioneing Authority at any time in its sole discretion or the Concessioneing Authority may grant additional time for compliance with these conditions and the Concessionaire shall be bound to ensure compliance within such additional time as may be specified by the Concessioneing Authority. Any of the Conditions Precedent set forth in Articles 3.1 (b) may be waived fully or partially by the Concessionaire at any time in its sole discretion.

3.4 If the Concessionaire has fulfilled all the Conditions Precedent under Article 3.1(a) including the furnishing of the *Performance* Guarantee and has not waived or extended the time under Clause 3.3 above, and if the Concessioneing Authority has failed to fulfil the Conditions Precedent to be fulfilled by it under Article 3.1(b) (and which are within the power of the Concessioneing Authority), the Concessioneing Authority shall be liable to pay liquidated damages in a sum calculated at the rate of 0.1% (zero point one percent) of

the Performance Guarantee for each day's delay until fulfillment of the Conditions Precedent subject to a maximum of 5% (five percent) of the figure mentioned in the Performance Guarantee furnished by the Concessionaire. In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Concessioneing Authority is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 3.6 below;

3.5 If the Concessioneing Authority has fulfilled all the Conditions Precedent under Article 3.1(b) and has not waived or extended the time under Clause 3.3 above, and if the Concessionaire has failed to fulfil the Conditions Precedent to be fulfilled by it under Article 3.1(a) (and which are within the power of the Concessionaire), the Concessionaire shall be liable to pay liquidated damages in a sum calculated at the rate of 0.1% (zero point one percent) of the Performance Guarantee for each day's delay until fulfillment of the Conditions Precedent subject to a maximum of 5% (five percent) of the figure mentioned in the Performance Guarantee furnished by the Concessionaire. In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Concessionaire is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 3.6 below;

3.6 In the event that the Conditions Precedents are not complied with within the time (including the extended time, if any) in terms of the aforesaid Articles 3.2 to 3.5, this Agreement shall be liable to be terminated. If such termination is on account of failure of the Concessionaire to comply with the Conditions Precedent, the Bid Security shall stand forfeited. If such termination is on account of failure of the Concessioneing Authority, the Concessioneing Authority shall be obliged to return the Bid Security / Performance Guarantee. It is clarified that except for the payment as stipulated in the foregoing Article 3.4 and 3.5 and forfeiture in this Article 3.6, each party hereto shall have no claims against the other for costs, damages, compensation or otherwise.



ARTICLE 4
PERFORMANCE GUARANTEE

4.1 Performance Guarantee

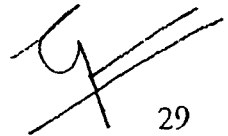
The Concessionaire shall for due performance of its obligations during the Construction Phase provide to the Concessioneing Authority an unconditional and irrevocable bank guarantee, in favour of the Concessioneing Authority encashable and enforceable at Visakhapatnam substantially in the form set forth in Appendix 9 or an irrevocable revolving letter of credit in the form acceptable to the Concessioneing Authority (the "Performance Guarantee"). The Performance Guarantee shall be for a sum of Rs. 57,250,000 (Rupees fifty seven million two hundred fifty thousand only). Till such time the Concessionaire provides to Concessioneing Authority the Performance Guarantee pursuant hereto, the Bid Security shall remain in full force and effect. The Performance Guarantee, if in the form of a bank guarantee shall be valid for an initial period of 1 (one) year and shall be renewed 30 (thirty) Days prior to expiry of each year, for an additional term of 1 (one) year. It is clarified that the Concessionaire shall be liable to restore the Performance Guarantee to the full amount in case of part encashment of the same by the Concessioneing Authority. This shall be done within 30 (thirty) Days of any such part encashment. The Performance Guarantee, if in the form of a letter of credit shall be irrevocable and replenished from time to time such that an amount of Rs. 57,250,000 (Rupees fifty seven million two hundred fifty thousand only) is available in immediate cash to the Concessioneing Authority for the entire period of the Construction Phase. The Performance Guarantee furnished under this provision shall be valid until expiry of 6 (six) months from the Date of Commercial Operations. Failure of the Concessionaire to provide a valid Performance Guarantee and/or restore and maintain the Performance Guarantee in accordance with this Article shall entitle the Concessioneing Authority to forthwith terminate this Agreement and also if relevant, to forfeit the Bid Security.



ARTICLE 5
INDEPENDENT ENGINEER

5.1 Independent Engineer

- (a) The Independent Engineer shall be selected through a tender process. The Concessioneing Authority shall in the procurement documents published by it, set out in reasonable detail the scope of work as indicated in Appendix 7 and shortlist bidders based on their technical capability. The Concessioneing Authority shall within 30 (thirty) Days of the date of this Agreement forward to the Concessionaire a list consisting of the names accompanied by their respective profile in brief of Persons so shortlisted. If within 15 (fifteen) Days of forwarding the list, the Concessioneing Authority does not receive any objection from the Concessionaire with reasons therefor, the Concessioneing Authority shall call for a financial bid from the shortlisted Persons and select the Independent Engineer ordinarily based on the lowest fee quote. Any objection raised by the Concessionaire shall be considered by the Concessioneing Authority and Persons against whom such objections are raised will at the discretion of the Concessioneing Authority, which discretion shall be used with the highest degree of prudence and fairness, be disqualified prior to seeking a financial bid.
- (b) The Independent Engineer selected pursuant to the aforesaid process shall be appointed for a period commencing from the Date of Award of Concession to the date of expiry of 6 (six) months from the Date of Commercial Operations. The scope of work of the Independent Engineer shall be substantially as set out in Appendix 7.
- (c) The costs and expenses of the Independent Engineer shall be borne by the Concessioneing Authority and Concessionaire, equally.
- (d) If the Concessioneing Authority either on its own or on a report of the Concessionaire has reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, the Concessioneing Authority may after giving the Independent Engineer due opportunity of being heard, terminate the appointment of the Independent Engineer and appoint another firm in its place in accordance with the preceding clause (a) above.
- (e) If either Party disputes any advice, instruction or decision of the Independent Engineer, the dispute shall be resolved in accordance with the dispute resolution procedure set out in Article 19.



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ARTICLE 6

PROJECT IMPLEMENTATION

6.1 Preparation of Designs and Drawings

The Concessionaire shall at its cost, charges and expenses, prepare the Designs and Drawings in conformity with the Project Requirements.

6.2 Review of the Designs and Drawings

- (a) The Concessionaire shall submit the Designs and Drawings as set out in Appendix 6 for the review of the Independent Engineer. Simultaneously, the Concessionaire shall also provide the Concessioneing Authority with a set of the Designs and Drawings.
- (b) The Independent Engineer shall review the Designs and Drawings submitted by the Concessionaire and provide its comments / observations and suggestions on the same (including taking into account the comments / observations of the Concessioneing Authority in respect thereof as it may in its sole discretion deem fit) within 21 (twenty one) Days from the date of the receipt of such Designs and Drawings.
- (c) In the event that the Independent Engineer has observed that the Designs and Drawings are not in conformity with the Project Requirements, the Concessionaire shall promptly and without any undue delay revise and resubmit the Designs and Drawings or satisfy the Independent Engineer with regards its compliance.
- (d) If the Independent Engineer does not make any observation / comments with respect to the Designs and Drawings submitted to it by the Concessionaire within 21 (twenty one) Days of the submission, it shall be deemed that the Independent Engineer has no suggestions to make with respect to the Designs and Drawings and the Concessionaire shall be entitled to proceed with the Project accordingly.
- (e) The Concessionaire shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or in resubmitting the Designs and Drawings. Provided however the Concessioneing Authority at its sole discretion may suitably extend the Construction Phase or provide other relief to compensate for any such delay not attributable to the Concessionaire.
- (f) The Concessionaire shall not change any Designs and Drawings reviewed by the Independent Engineer under this Agreement, without submitting such revised Designs and Drawings for the review of the Independent Engineer.

- (g) Notwithstanding the review by the Independent Engineer, the Concessionaire shall be solely responsible for any defect and/or deficiency in the Designs and Drawings relating to the Project or any part thereof and accordingly the Concessionaire shall at all times remain responsible for its obligations under this Agreement.
- (h) Any review of the Designs and Drawings conducted by the Concessioneing Authority is solely for the Concessioneing Authority's own information and that by conducting such review, the Concessioneing Authority does not accept any responsibility for the same.
- (i) The Concessionaire shall in no way represent to any Person that, as a result of any review by the Independent Engineer, the Concessioneing Authority has accepted responsibility for the engineering or soundness of any work relating to the Project/ the Project Facilities and Services or part thereof carried out by the Concessionaire and the Concessionaire shall, in accordance with the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project/ the Project Facilities and Services or any part thereof.

6.3 Construction Phase

The Concessionaire shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule and shall also obtain from the Independent Engineer a certificate as to completion of construction of Project Facilities and Services in accordance with the provisions of this Agreement ("Completion Certificate") not later than 24 (Twenty four) Months from the date of commencement of the Concession Period.

6.4 Obligations of the Concessionaire

Without prejudice to the generality of Article 6.3 and in addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessionaire shall:

- (a) arrange for, in a timely manner all necessary financial and other resources required for construction and installation of the Project Facilities and Services.
- (b) engage professionally competent Persons for project management and construction and ensure that all works are carried out in compliance with the Construction Standards;
- (c) give written notice to the Concessioneing Authority within 7 (seven) Days of any material modification or change to any of the Financing Documents and / or any Equity Documents and shall simultaneously therewith also furnish copies of such modified / amended documents to the Concessioneing Authority. Provided no such modification / amendment will be made if it in

any manner whatsoever has the effect of imposing an additional financial obligation or increasing the financial obligation of the Concessioneing Authority in addition to that contemplated under the Financing Documents provided on Financial Close, without the prior written consent of the Concessioneing Authority. For avoidance of doubt any such modifications / amendments made without the prior written consent of the Concessioneing Authority will not be enforceable against the Concessioneing Authority;

- (d) obtain Applicable Permits, comply with Applicable Laws and Applicable Permits and give priority to safety in its construction and planning activities in order to protect life, health, property and environment;
- (e) provide to the representative(s) of the Concessioneing Authority, at reasonable times and upon prior intimation, access to the Project Site to review progress in construction and to ascertain compliance with any of the requirements of this Agreement. Provided that non-inspection by the Concessioneing Authority of any works shall not, in relation to such works, (i) amount to any consent or approval by the Concessioneing Authority nor shall the same be deemed to be waiver of any of the rights of the Concessioneing Authority under this Agreement; and (ii) release or discharge the Concessionaire from its obligations or liabilities under this Agreement in respect of such work;
- (f) provide monthly reports on the progress of Construction Works or such other relevant information as may be required by the Independent Engineer;
- (g) promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Independent Engineer and ensure timely completion of construction of the Project / the Project Facilities and Services in all respects in accordance with the provisions of this Agreement; and
- (h) to ensure safe and timely construction and completion of the Project / Project Facilities and Services, the Concessionaire may, at its cost, interrupt and divert/create barriers on the flow of water or on the road or port traffic, adjacent to the Project Site if such interruption and diversion is imperative for the efficient progress of Construction Works and conforms to Good Industry Practice; provided that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Independent Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Concessionaire shall at all times be responsible for ensuring safe operation of Construction Works and shall remove the interruption or diversion within the period specified by the Independent Engineer.

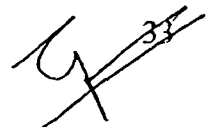
6.5 Obligations of the Concessioneing Authority

In addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessioneing Authority shall:

- (a) in matters falling within its authority, grant, the Applicable Permits, approvals and consents as may be required by the Concessionaire and on a best efforts basis assist the Concessionaire in obtaining all other Applicable Permits as may be required by the Concessionaire;
- (b) make available all records of sub-soil investigations carried out on its behalf in the Port's Assets, if requested by the Concessionaire. It is clarified that the Concessionaire shall be solely responsible for determining the adequacy or otherwise of such investigations and will not in reliance of such records, be entitled to claim any relief under this Agreement;
- (c) upon satisfaction as to completion and receipt of Completion Certificate issued by the Independent Engineer promptly obtain approval of the Collector of Customs, publish requisite notifications in the Official Gazette and declare the Project Facilities and Services as ready for operation in accordance with the provisions of Section 37 of the MPT Act;
- (d) upon written request from the Concessionaire, assist the Concessionaire, on a best effort basis, in obtaining immigration clearances, employment permits and residential premises for any foreign personnel engaged or employed by the Concessionaire in connection with the implementation of the Project; and
- (e) subject to the Concessionaire / Contractor complying with the requirements under the Applicable Laws including but not limited to payment of customs and any other duty, assist the Concessionaire or Contractor, on a best effort basis, to import into India all items of equipment and materials required for the Project.

6.6 Suspension of Works

- (a) Upon recommendation of the Independent Engineer to this effect, the Concessioneing Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Concessioneing Authority, such work is not in accordance with the Construction Standards / Safety Standards.
- (b) The Concessionaire shall, pursuant to the notice under the foregoing provision suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Concessioneing Authority and thereupon represent to the Concessioneing Authority / Independent Engineer, the remedial measures to remedy the defects notified. The Concessionaire may by notice require the Independent Engineer to inspect such remedial measures forthwith and make a report to



the Concessioneing Authority recommending whether or not the suspension hereunder may be revoked. Any dispute as regards the suspension of works or the remedial measures proposed, if cannot resolved within 30 (thirty) Days of the suspension or proposal of the remedial measures, shall be submitted for dispute resolution in accordance with Article 19 hereof.

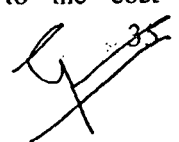
6.7 Issue of Completion Certificate

- (a) At least 60 (sixty) Days prior to the likely completion of the Project, the Concessionaire shall notify the Independent Engineer of the date when it intends to commence commercial operations. The Independent Engineer shall then proceed to inspect the Construction Works with the intention of issuing the Completion Certificate and determine and notify to the Concessionaire the schedule and manner of the tests as are specified in Appendix 7 that it shall carry out to ensure that the Project meets with the Construction Standards ("the Tests"). The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Concessionaire, and notified to the Concessioneing Authority who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Independent Engineer failing to mutually agree on the dates for conducting the Tests, the Concessionaire shall fix the dates by not less than 10 (ten) Days notice to the Independent Engineer;
- (b) Upon completion of each Test, the Independent Engineer shall provide to the Concessionaire and the Concessioneing Authority copies of all Test data including detailed Test results;
- (c) Upon completion of Construction Works and the Independent Engineer determining all the Tests to be successful, it shall forthwith issue to the Concessionaire and the Concessioneing Authority a Completion Certificate substantially in the form set forth in Appendix 10;
- (d) The Independent Engineer may, at the request of the Concessionaire, issue a provisional certificate of completion substantially in the form set forth in Appendix 10 (the "Provisional Certificate") if the Tests are successful and the Project can be safely and reliably placed in commercial operation though certain works or things forming part thereof are outstanding and not yet complete. The Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire (the "Punch List") to be completed by the Concessionaire within a stipulated time. Provided, notwithstanding the foregoing, no such Provisional Certificate will be issued pending notifications in the Official Gazette by the Collector of Customs, in accordance with the provisions of Section 37 of the MPT Act for the Project Facilities and Services. All items in the Punch List shall be completed by the Concessionaire within 90 (ninety) Days of the date of issue of the Provisional Certificate or such other extended period that the Concessioneing Authority may in its sole discretion determine, failing which the Provisional Certificate shall lose its validity and the Concessioneing Authority shall be entitled to terminate this Agreement;

- (e) Without prejudice to the foregoing, if the Concessionaire shall have failed to complete any Construction Works on account of Force Majeure or for reasons solely attributable to the Concessions Authority, the Concessions Authority may, in its discretion, reduce the scope of Project and require the Concessionaire to pay 80% (eighty percent) of the sum saved due to such reduction of scope. Upon such payment to the Concessions Authority, the obligations of the Concessionaire in respect of such works shall be deemed to have been fulfilled.

6.8 Change of Scope

- (a) The Concessions Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the scope of the Project as contemplated by this Agreement ("Change of Scope"). Provided no such Change of Scope shall be made in the Construction Phase if it is in the reasonable judgment of the parties hereto likely to delay the completion of the Project such that the Project cannot be completed on the Scheduled Project Completion Date. Provided further, the cost of implementing a single Change of Scope shall not exceed a sum corresponding to 5% (five percent) of the Estimated Project Cost and during the Concession Period the cumulative cost of implementing orders pertaining to Change of Scope shall not exceed a sum corresponding to 20% (twenty percent) of the Estimated Project Cost ;
- (b) If the Concessions Authority determines that a Change of Scope is necessary, it shall issue to the Concessionaire a notice specifying in reasonable detail the works and services contemplated thereunder (the "Change of Scope Notice");
- (c) Upon receipt of a Change of Scope Notice, the Concessionaire shall, provide to the Concessions Authority, the following:
- (i) the adverse impact, if any, which the Change of Scope is likely to have on the Project; and
 - (ii) the cost to be incurred by the Concessionaire for and in respect of such Change of Scope;
- (d) Upon receipt of the foregoing information, the Concessions Authority shall, if it decides to proceed with the Change of Scope, convey its agreement or otherwise of the assessment of the Concessionaire. If the Concessionaire does not notify any adverse impact of a Change of Scope notified under the Change of Scope Notice within 30 (thirty) Days of the date thereof and/or the Concessions Authority does not disagree with the cost assessment of the Concessionaire, the Concessions Authority shall issue an order requiring the Concessionaire to proceed with the implementation of such Change of Scope. If an adverse impact is notified by the Concessionaire and / or the Concessions Authority disagrees with the cost assessment, the Parties shall in good faith modify the Change of Scope envisaged so as to remove the adverse impact / agree to the cost



implication for carrying out the Change of Scope within a period of 30 (thirty) Days of notification of the adverse impact/cost. In the event that the Parties are unable to mutually agree to a Change of Scope and/or the cost of implementing the same, they may seek intervention of an Expert to resolve the differences and upon the final determination of the desired Change of Scope and its cost implication, the Concessioneing Authority may issue an order to implement the Change of Scope;

- (e) The provisions of this Agreement, insofar as they relate to Construction Works and Tests, shall apply mutatis mutandis to the works undertaken by the Concessionaire in respect of a Change of Scope;
- (f) Within 7 (seven) Days of an order for Change of Scope being issued, the Concessioneing Authority shall make an advance payment to the Concessionaire of a sum equal to 20% (twenty per cent) of the cost of Change of Scope as agreed hereunder. The Concessionaire shall, after commencement of work, present to the Concessioneing Authority bills for payment in respect of the works in progress or completed works, as the case may be, supported by such documentation as is reasonably sufficient for the Concessioneing Authority to determine the accuracy thereof. Within 30 (thirty) Days of receipt of such bills, the Concessioneing Authority shall disburse to the Concessionaire such amounts as are certified by the Statutory Auditors as being expended by the Concessionaire for and in respect of implementing Construction Works or procuring equipments following an order for a Change of Scope;
- (g) Notwithstanding anything to the contrary contained in this Article 6.8, the Concessioneing Authority may, after giving the Change of Scope Notice to the Concessionaire and considering its reply thereto, decide to seek competitive bids for carrying out the works envisaged in a Change of Scope; provided that the Concessionaire shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two per cent) of the bid amount to the Concessioneing Authority, and thereupon securing the award of such works or services. For the avoidance of doubt, it is agreed that the Concessionaire shall be entitled to exercise such option only if it has participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten percent) thereof; and
- (h) If during the pendency of the Agreement, the Concessionaire determines at any time that a Change of Scope is necessary for providing safer and improved Project Facilities and Services, it shall by notice in writing request the Concessioneing Authority to consider such Change of Scope. The Concessionaire may implement the Project and provide Project Facilities and Services in accordance with the Change of Scope as may be approved in writing by the Concessioneing Authority and all the provisions of this Article 6 for the Project Implementation shall mutatis mutandis apply. Provided, it is clarified that the provisions contained in Article 6.8 (f) and (g) shall not apply to a Change of Scope required by the Concessionaire.

6.9 Liquidated Damages

Subject to any of the provisions of this Agreement providing for extension of time for performance or excuse from performance, as the case may be, of any of the obligations of the Concessionaire under this Agreement, the Concessionaire shall pay to the Concessioneing Authority liquidated damages at the rate of 0.1% (zero point one percent) of the Performance Guarantee for every Day of delay in fulfilling the specified obligations on or before a Milestone Date including a delay in obtaining the Completion Certificate or the Provisional Certificate on or before the Scheduled Project Completion Date. Provided such liquidated damages shall not in aggregate exceed 5% (five percent) of the Estimated Project Cost and unless the delay is in obtaining of the Completion Certificate or the Provisional Certificate, shall not be payable for less than 15 (fifteen) Days of delay from a Milestone Date, in fulfilling a specified obligation. The Parties agree that the liquidated damages as provided are a genuine pre-estimate of the damages the Concessioneing Authority is likely to suffer and are not by way of a penalty. In case the aggregate delay exceeds 180 (one hundred and eighty) Days or the aggregate liquidated damages paid and/or payable under this provision exceeds the specified limit of 5% (five percent) of the Estimated Project Cost, the Concessioneing Authority shall be entitled to terminate this Agreement and the consequences of termination as laid down in Article 16.5 shall follow. The Concessioneing Authority may, at its discretion recover any amounts with respect to liquidated damages from the Performance Guarantee.



ARTICLE 7

OPERATIONS & MAINTENANCE

7.1 (a) Obligations of the Concessionaire

In addition to any of its other obligations under this Agreement, the Concessionaire shall manage, operate, maintain and repair the Project Facilities and Services, entirely at its cost, charges, expenses and risk in accordance with the provisions of this Agreement. The Concessionaire's obligations under this Article 7.1 shall include but shall not be limited to the following:

(i) Berth and Terminal Operations:

The Concessionaire shall:

- (a) promptly commence operations upon the Project Facilities and Services being declared by the Concessioning Authority as ready for operations;
- (b) make efforts to maximise cargo handled so as to achieve optimal utilization of the Project Facilities and Services;
- (c) ensure compliance of the Project Facilities and Services at least with the Project Requirements;
- (d) ensure compliance of the Project Facilities and Services at least with the Performance Standards;
- (e) ensure that the Project Facilities and Services shall adhere to the Operations and Maintenance Standards and Safety Standards and there is safe, smooth and uninterrupted flow of traffic normal operating conditions;
- (f) minimise disruption to traffic in the event of accidents or other incidents affecting the safety and use of the Project Facilities and Services by providing a rapid and effective response and maintaining liaison with emergency services of the Concessioning Authority or other agencies;
- (g) make available all necessary financial, technical, technological, managerial and other resources for operation, maintenance, repair and replacement of the Project Facilities and Services in a timely manner;
- (h) except for the priority and preferential berthing that may be authorized in terms of guidelines issued by the Government from time to time, manage and operate the Project Facilities and Services on a first come - first serve, common-user basis, open to any and all shipping lines, importers, exporters, shippers, consignees and receivers, and refrain from indulging in any unfair or discriminatory practice against any user or potential user thereof;

- (i) ensure maintenance of proper and accurate record / data / accounts relating to operations of the Project Facilities and Services and the revenue earned therefrom;
- (j) obtain, maintain and comply with Applicable Permits and comply with the Applicable Laws including those relating but not limited to dock side safety, health, environment and labour;
- (k) subject to the provisions of this Agreement, perform, undertake or provide, in connection with the Project, all services which the Concessioning Authority is authorized to perform, undertake or provide under the provisions of the MPT Act; and
- (l) prevent, with the assistance of concerned law enforcement agencies, any encroachment or unauthorized use of the Project Facilities and Services.

(ii) Repairs and Maintenance

The Concessionaire shall at its own cost:

- (a) repair as necessary and maintain the Project Facilities and Services or any part thereof in accordance with the Project Requirements and for this purpose carry out routine preventive measures and maintenance of the Project Facilities and Services including resurveying of pavement, repair structures and repair and refurbish equipments; and
- (b) maintain the Project Facilities and Services in accordance with the provisions of this Agreement and Good Industry Practice with the objective of providing adequate service standards and ensuring that the Project Facilities and Services to be transferred to the Concessioning Authority upon expiry of the Concession Period are in good condition, normal wear and tear excepted.
- (c) *The Concessionaire shall carry out capital dredging at the berth to a depth of (-) 16.10m in phases as set out in Appendix 4 and maintain the dredged depth accordingly up to 50m from the face line of the berth including conducting periodical hydrographic surveys.*

(iii) Replacement of Equipment

The Concessionaire shall at its cost, plan for replacement of the equipment well ahead of the time when the utility thereof is reasonably expected to expire and replace the equipment in accordance with Good Industry Practice so as to ensure that the Project Facilities and Services commensurate with the Project Requirements, at all times during the Concession Period.

(iv) Repairs, Replacement or Restoration

The Concessionaire shall at its own costs, promptly and diligently repair, replace or restore any of the Project Facilities and Services or part thereof which may be lost, damaged, or destroyed for any reason whatsoever.

(v) Removal / Replacement of Assets

Except as provided / authorized under this Agreement the Concessionaire shall not, without the prior written intimation to the Concessioneing Authority, remove or replace any assets comprised in the Project Facilities and Services. Such notice shall contain the exact details of the assets that the Concessionaire intends to remove and/or replace, its reasons for doing so and the likely period for replacement.

(vi) Payments to the Concessioneing Authority

The Concessionaire shall make / ensure payments to the Concessioneing Authority as per Article 9.

(vii) Access for Inspection

The Concessionaire shall be obliged to extend all co-operation to Experts appointed by the Concessioneing Authority for purposes of verifying that the Project / the Project Facilities and Services are operated and maintained in compliance with the Performance Standards and adhere to the Operations and Maintenance Standards and Safety Standards. Such verification shall be made annually. Additionally, the Concessionaire shall upon prior intimation by the Concessioneing Authority provide the authorized representatives of the Concessioneing Authority access to the Port's Assets / the Project Facilities and Services for inspection and review of operations and also to ascertain compliance with any of the requirements under this Agreement. Without prejudice to the generality of this provision, it is agreed by the Concessionaire shall in particular extend all co-operation and information required by the Experts appointed by the Concessioneing Authority for conducting a safety audit and verifying that the Project / Project Facilities and Services are in strict compliance with the Safety Standards.

(viii) Reports

The Concessionaire shall provide to the Concessioneing Authority, Monthly reports on cargo traffic, unit gross output / discharge rates at berth, daily output rated per vessel, Tariff earned and collected in respect of Project Facilities and Services and effective working time to waiting within 15 (fifteen) Days following the end of each Month, and any other information relating to operations which the Concessioneing Authority may require from time to time. If so desired by the Concessioneing Authority, the Concessionaire shall provide the reports in prescribed formats and in electronic form so as to

provide online access to the Concessioneing Authority and its representatives.

(ix) Computer System and Network

The Concessionaire shall install, operate and maintain such computer system and network (such as Electronic Data Interchange and Port Community System) and follow such protocol as the Concessioneing Authority may specify from time to time.

(x) Security Arrangements

The Concessionaire may make his own arrangements for security in the Project Site / Port Assets and with respect to the Project provided the Concessionaire shall abide by the security regulations / procedures prescribed by the Concessioneing Authority or a Government Authority from time to time. It shall also conform to and assist the Concessioneing Authority or any authority responsible therefor in conforming to the International Ship and Port Facility Security Code ("ISPS Code") and such other codes / requirements of International Maritime Organization as may be applicable to India from time to time.

(xi) Employment of Personnel

The Concessionaire shall employ qualified and skilled personnel required to operate the Project Facilities and Services. The terms of employment may be as deemed fit by the Concessionaire and the Concessionaire shall comply with all Applicable Laws and bear all costs in this regard. Without prejudice to the generality of this provision, all requisite approvals for employment of personnel of foreign origin or nationality shall be obtained by the Concessionaire prior to engaging such personnel. Failure to obtain approval will not amount to a Force Majeure Event. All employees shall always remain the Concessionaire's responsibility.

All labour law compliances shall be that of the Concessionaire alone.

(xii) "Minimum Guaranteed Cargo"

The Concessionaire hereby unconditionally guarantees the Concessioneing Authority annual cargo handling of the levels set out in Appendix-14 ("Minimum Guaranteed Cargo") and agrees that except as provided in this Agreement, it shall not be entitled to any relaxation of its guarantee in this respect.

(xiii) Indemnity Against Claims for Loss of Goods

Notwithstanding anything contained in the MPT Act or any other law for the time being in force, the Concessionaire shall be responsible for meeting any claim, action, suit or proceeding



(the "Action") by any third party alleging the loss, destruction or deterioration of goods of which charge has been taken by the Concessionaire and indemnify, save and hold harmless the Concessioning Authority, its officers, employees, agents and representatives (the "Indemnitees") against all claims which may be asserted against or suffered and legal fees and costs incurred and which relate to any such goods, provided that notice of the Action received by the Indemnitee(s) shall be forwarded to the Concessionaire expeditiously and in any case within 7 (Seven) Days of the receipt thereof by any of the Indemnitees. Provided further that the Indemnitees shall have the right but not the obligation, to contest, defend and litigate any Action by any third party alleged or asserted against any of such Indemnitees in respect of, resulting from, related to or arising out of any matter for which it is to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Concessionaire. If the Concessionaire acknowledges in writing its obligation to indemnify the Indemnitees in respect of loss to the full extent, the Concessionaire shall be entitled, at its option, to assume and control the defence of such Action at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnitees and reimburses to them for the reasonable cost and expenses incurred by them prior to the assumption of such defence by the Concessionaire. In such case the Indemnitees shall not be entitled to settle or compromise any Action without the prior written consent of the Concessionaire, which consent shall not be unreasonably withheld or delayed. This indemnity shall survive termination of this Agreement.

(b) Rights of the Concessionaire

(i) Preferential and Priority Berthing

The Concessionaire may offer preferential or priority berthing to any one or more shipping lines or vessel owners/operators to optimize the use of the Project Facilities and Services. Such preferential or priority berthing shall be subject to the priority berthing norms as may be mutually determined by the Parties in accordance with Applicable Laws or guidelines issued by the Government from time to time in respect thereof, if any.

(ii) Unclaimed cargo

The Concessionaire may at its cost:

(a) after obtaining prior written approval of the Commissioner of Customs or other competent Government Authority and in accordance with the provisions of Applicable Law, destroy or dispose off by way of public auction and/or tender, any unclaimed cargo, the charge of which has been taken by Concessionaire under or pursuant to this Agreement, and always subject to provisions of MPT Act and other laws in this regard.

(b) institute proceedings for recovery of unrealized charges, if

any, in its name and / or defend any claim made in respect of such cargo by consignee / owners. The Concessioneing Authority agrees to provide all reasonable assistance necessary in this regard to the Concessionaire.

(c) **Obligations of the Concessioneing Authority**

In addition to any of its other obligations in this Agreement, the Concessioneing Authority shall arrange for and provide the following:

(i) **Marine and Port Services**

The Concessioneing Authority shall provide / cause to be provided, to the Concessionaire, the following services:

- (a) scheduling the entry, berthing and sailing of the vessels, pilotage and towage on a non-discriminatory basis subject to priority berthing norms and the sailing schedule as determined by the Deputy Conservator of the Port depending on individual ship characteristics and tidal conditions;
- (b) *maintenance of the inner harbour entrance channel depth at (-) 11.80m / (-) 12.10 m initially and (-) 13.50 m & (-) 16.10 m. in phases in future as per the deepening plans of the Concessioneing Authority;*
- (c) waterside safety and safety of navigation;
- (d) *Maintenance of the dredged depth at berth in the area beyond 50m. from the face line of the berth at (-) 12.10 m initially and (-) 13.50 m & (-) 16.10 m. in phases in future as per the deepening plans of the Concessioneing Authority.*
- (e) *Maintenance of commensurated dredged depths at Turning Basin including access channels.*
- (f) carry out maintenance dredging operations, if any that may be required *in terms of Clause 7.1(c) (i) (b), and 7.1(c) (i) (d)* to ensure the depth to be maintained at the levels agreed under this Agreement, with minimum inconvenience to or dislocation of the Project Facilities and Services;
- (g) provision and maintenance of all general port infrastructure other than those covered under the Concession, necessary for management, operation and maintenance of the Project Facilities and Services;
- (h) assist the Concessionaire in securing the assistance of CISF or the relevant Government Authority as may be necessary to prosecute any persons for any offence committed by them within the Project Site; and



- (i) evolve mutually acceptable mechanism for sharing of common costs by existing and future terminal operators.

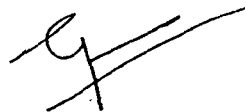
(ii) **Approvals**

The Concessioneing Authority shall promptly grant approvals / consents sought by the Concessionaire as required under this Agreement subject to the Concessionaire having complied with all Applicable Laws / requirements in this regard.

7.2 Utilities and Services

The Concessioneing Authority shall during the Concession Period provide access to the Concessionaire to all infrastructure facilities and utilities including water, electricity and communication facilities necessary for the implementation, operations and maintenance of the Project / Project Facilities and Services in accordance with this Agreement, at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers availing substantially equivalent facilities and utilities. Provided unless otherwise agreed to by the Concessioneing Authority:

- (a) *the power made available shall be as received by the Concessioneing Authority from AP TRANSCO.*
- (b) *the water made available shall be as received by the Concessioneing Authority from Greater Visakhapatnam Municipal Corporation (GVMC). The take off point for water shall be the nearest available water line;*
- (c) *the Concessionaire shall, at its cost, and to the satisfaction of the Concessioneing Authority, install meters to measure the consumption of power and water. The Concessioneing Authority does not warranty the reliability, quality and quantity of water and power and shall not be liable in any manner for the shortage in or non-supply of these utilities;*
- (d) *The Concessionaire may, at its cost, make alternate arrangements for power including but not limited to installation of generators, subject to obtaining Applicable Permits, if any, therefor.*



7.3 Liability for shortfall in performance

In the event the Concessioneing Authority, whether from the review of reports submitted by the Concessionaire in accordance with the provisions of this Agreement or otherwise, observes that the Project / Project Facilities and Services do not comply with the Performance Standards or fall short of the Performance Standards, the Concessioneing Authority shall calculate the amount of liquidated damages payable by the Concessionaire in accordance with Appendix 15 of this Agreement and demand the Concessionaire by a notice in writing to pay the same within 30 (thirty) Days and on failure of the Concessionaire to pay the same recover the amount from the Concessionaire. Provided that on receipt of the demand the Concessionaire may make a written representation to the Concessioneing Authority which shall be considered by the Concessioneing Authority on merits and the Concessioneing Authority may waive the liquidated damages in part or full, if it is satisfied that the Concessionaire has been carrying out its obligations diligently and efficiently and the shortfall to be waived was on account of reasons beyond the control of the Concessionaire.

It is clarified that this provision does not prejudice the rights of the Concessioneing Authority upon a Concessionaire Event of Default as set out in Article 15 including the Concessioneing Authority's right to terminate this Agreement which shall remain unaffected.



ARTICLE 8

TARIFF



8.1 Levy and Recovery of the Tariff

The Concessionaire shall be entitled to recover Tariff from the users of the Project Facilities and Services as per the Tariff Notification, an extract of which is set out in Appendix 12. The Tariffs shall be revised in the manner set out in Appendix 12 and duly notified from time to time by the TAMP under Sections 48, 49 and 50 of the MPT Act or such other competent authority under the Applicable Laws. The Tariff Notification prescribes the maximum Tariff that can be levied by the Concessionaire and the Concessionaire may charge lower than the rates prescribed. As of the date hereof, the applicable Tariff guidelines are as set out in Appendix 12. The Concessionaire shall, subject to Article 8.2 hereunder, deposit all Tariff and other receipts in relation to the Project Facilities and Services in the Escrow Account and shall not make any such deposits to any other account either of the Concessionaire or of any other person.

8.1.2 The Concessionaire hereby acknowledges and agrees that it is not entitled to any revision of Tariff or other relief from the Concessioneing Authority or any Government Instrumentality, except in accordance with the express provisions of Agreement, the Concessionaire further acknowledges and here by accepts the risk of inadequacy, mistake or error of facts, assumptions or projections in the Tariff order issued by TAMP and agrees that the Concessioneing Authority shall not be liable for the same in any manner whatsoever to the Concessionaire.

8.2 Collection of Cesses and Charges

The Concessionaire shall collect all cesses and charges including infrastructure cess, if any levied on the users as may be requested by the Concessioneing Authority, on behalf of the Concessioneing Authority and remit the same to the Concessioneing Authority. Provided, the Concessionaire shall be duly authorized by the Concessioneing Authority or such other authority as may be competent in this regard, for the purpose of such collection.



ARTICLE 9

PAYMENTS TO THE CONCESSIONING AUTHORITY

9.1 License Fee

- (a) The Concessionaire shall, as consideration for the use, in its capacity as a bare licensee of the Project Site (land) comprised in the Port's Assets, made available in accordance with Article 2.4, pay to the Concessioneing Authority the sum of Rs 6.20 million (Rupees six decimal two zero million Only) (as specified in the bid documents) (the "License Fee") towards annual land lease rental for the extent of land 50,000 Sq.m. for storage facilities and 10,000 Sq.m. for backup area.. Such amount shall be paid by the Concessionaire every year as agreed upon..

The annual land lease rentals will be escalated every year @ 2% on land lease rentals prevailing from time to time. The land lease rentals as per Schedule of rates prevailing from time to time shall be payable by the Concessionaire to Concessioneing Authority for the land leased.

The Concessionaire shall also pay 1(one) year rent as premium, 1(one) year rent as advance and 5(five) years rent as Security Deposit* for allotment of the above-mentioned land. The Security Deposit can be in the form of Bank Guarantee.

In addition to the above a lump sum amount of Rs 68.00 (Rupees sixty eight) Million shall be payable by the Concessionaire as upfront fee as other facilities viz. Lighting, roads, drains, culverts, dredging etc. made available by the Concessioneing Authority and towards the amount spent for infrastructure development.

* The land policy guidelines as on the date of opening of RFP will be made applicable.

- (b) Any delay in payment of the amount in the preceding clause (a) shall entail payment of interest @ SBI PLR plus 2% (two percent) per annum on the amount outstanding.

9.2 Payments of Royalty

- (a) The Concessionaire shall pay to the Concessioneing Authority Royalty per Month equivalent to 47.17 % (Forty seven decimal one seven percent) of the Gross Revenue chargeable by the Concessionaire ("the Royalty").

- (b) Gross Revenue shall be computed on the basis of the maximum Tariffs leviable for and in respect of the Project Facilities and Services provided during the relevant period of computation. It is clarified that discounts and deferments, if any offered by the Concessionaire to the users or amounts if any not collected by the Concessionaire for any reason whatsoever in respect of the Project Facilities and Services, shall be ignored for the purpose of Gross Revenue. Further, in computing the Gross Revenue, income from interest, sale of assets, amounts received



by the Concessionaire by way of damages from third parties (excepting damages received from the users on account of demurrage or such other related charges in respect of the Project Facilities and Services), taxes and cesses in respect to the Project Facilities and Services, if any collected and paid to any Government Authority shall also be ignored.

- (c) Royalty for each Month shall be paid on or before the seventh Day of the immediately succeeding Month.
- (d) The payment of Royalty shall commence from the Month in which the Concessionaire commences to provide any Project Facilities and Services, and shall be irrespective of Date of Commercial Operation.
- (e) Royalty amounts remaining unpaid on respective due dates would carry interest @ SBI PLR plus 2% (two percent) per annum from the due date till the date of payment or realization thereof.

9.3 Utilities or Services

The Concessionaire shall also pay rent or other charges for any premises (other than the Project Site / Project Assets) or additional utilities or services, made available by the Concessioneing Authority to the Concessionaire in accordance with the terms, conditions and covenants including on payment of rates specified by the Concessioneing Authority. *Such rates shall be the Schedule of Rates in respect of land and twice the Scale of Rates for all other utilities and services* and as may be notified by the competent authority in respect thereof from time to time (the present rates applicable in respect of land, utilities and services are set out in Appendix 13).

9.4 Certified Accounts

During the subsistence of this Agreement, the Concessionaire shall maintain all documents and supporting evidences for its financial statements including agreements and documents with respect to all capital and debt raised by the Concessionaire, capital and revenue expenses towards the Project, ship / vessel / user wise information, and, as relevant, the details of cargo handled by category, tariffs charged and the amount of rates received. The Concessionaire shall submit to the Concessioneing Authority a financial statement of the Gross Revenue for every 6 (six) monthly period ending 30th September and 31st March every year, duly certified by its Statutory Auditors. The certificate must be furnished within 30 (thirty) Days of the end of each such period.

The Concessioneing Authority shall, at its own cost, have the option to appoint another firm of chartered accountants duly licensed to practice in India (the "Additional Auditor") to conduct a special audit of the Gross Revenue and the financial statements, documents and supporting evidences thereto as may be mandated by the Concessioneing Authority and report to the Concessioneing Authority such information as may be desired by the Concessioneing Authority for any period and the Gross Revenue ("Special Audit").

In the event that the Gross Revenue reported by the Additional Auditor is higher than that reported by the Statutory Auditor, the auditors shall meet to resolve such

differences and if they are unable to resolve the same the Concessionaire shall pay Royalty on the Gross Revenue reported by the Additional Auditor. The Concessionaire shall also pay interest @ SBI M.R. plus 2% (two percent) on the difference between the Royalty paid by the Concessionaire based on the Gross Revenue reported by the Statutory Auditor and that payable by the Concessionaire based on the Gross Revenue reported by the Additional Auditor for the intervening period between the payment of the Royalties as above. Further, the Concessionaire shall reimburse all costs, charges and expenses related to the Special Audit. Without prejudice to the aforesaid, if the difference between the Gross Revenue reported by the Additional Auditor and that reported by the Statutory Auditor is higher than 5% (five percent), the Concessioning Authority shall at its sole discretion have the right to require a Special Audit for the entire outstanding tenure of the Concession.

9.5 Escrow Account

The Concessionaire shall maintain an escrow account with a bank approved by the Lenders ("Escrow Account"), during the subsistence of this Agreement and enter into an agreement substantially in the format prescribed in Appendix 16 with such bank to ensure that all proceeds for financing the Project and all revenues and other receipts arising from the Project and under any agreements, including this Agreement received by the Concessionaire are deposited into such Escrow Account. Provided, the Concessionaire shall not deposit any amounts including the cesses and duties collected by it from the users on behalf of the Concessioning Authority or such other authority in accordance with Article 8.2 hereof or pursuant to any other instructions in respect thereof in the Escrow Account and shall deposit the same in a separate account dedicated for the same and maintained by it in trust for the Concessioning Authority or such other authority.

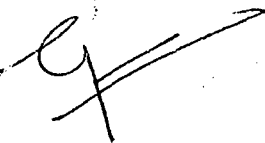

- (a) Withdrawals and appropriations during the Concession Period, at any relevant time, from the Escrow Account shall be in the following order of priority:
- (i) for all taxes due and payable by the Concessionaire;
 - (ii) towards payment of License Fee;
 - (iii) all construction / implementation expenses relating to the Project / Project Facilities and Services, subject to limits if any set out under the Financing Documents;
 - (iv) all expenses relating to operations and management of the Project / Project Facilities and Services, subject to limits if any set out under the Financing Documents;
 - (v) towards its debt service obligations under the Financing Documents;
 - (vi) towards payment of Royalty and other sums payable to the Concessioning Authority and liquidated damages, if any;
 - (vii) towards any reserve requirements in accordance with the Financing Documents;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the Escrow Account after all the aforesaid payments due in any Quarter have been made and / or adequate reserves have been created in respect thereof for that Quarter. Provided, upon issuance of Termination Notice and / or suspension of the Concessionaire in accordance with the provisions of this Agreement, withdrawal from the Escrow Account shall be made only in accordance with the written instructions of the Concessioneing Authority and the Lenders.

(b) All amounts standing to the credit of the Escrow Account at the end of the Concession Period including amounts credited to the Escrow Account towards compensation payable in accordance with Article 17 shall be appropriated in the following order of priority:

- (i) towards taxes and statutory dues payable by the Concessionaire;
- (ii) compensation to Lenders in terms of the Financing Documents towards discharge of the Concessionaire's liability under such Financing Documents;
- (iii) all amounts due to the Concessioneing Authority and amounts payable towards transfer of the Project Facilities and Services by the Concessionaire in accordance with this Agreement;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the Escrow Account after all the aforesaid payments due have been made and / or adequate reserves have been created in respect thereof to the satisfaction of the Lenders and the Concessioneing Authority.



ARTICLE 10

ASSETS: OWNERSHIP AND PERMITTED CHARGE

10.1 Ownership of Assets

(a) Land and Water Area

The ownership of the Project Site and Port's Assets shall always remain vested with the Concessioneing Authority. The rights of the Concessionaire in the Project Site and Port's Assets shall only be that of a bare licensee of such assets and the Concessionaire shall neither assign, transfer, sublet, create any charge or Encumbrance, nor shall the Concessionaire create or permit creation of any third party rights whatsoever, on any part of the Port's Assets or Project Site. Further, any such rights of the Concessionaire shall always be subject to existing rights of way. It is expressly agreed that the Concessionaire's rights in the Project Site and / or the Port's Assets shall cease without the need for any action to be taken by the Concessioneing Authority upon the termination of this Agreement for any reason whatsoever.

(b) Assets created or provided by the Concessionaire

The ownership of all infrastructure assets, buildings, structures, berths, wharfs, equipment and other immovable and movable assets constructed, installed, located, created or provided by the Concessionaire at the Project Site and/or in the Port's Assets pursuant to this Agreement shall, until expiry of this Agreement or transfer to the Concessioneing Authority on Termination in accordance with this Agreement, be with the Concessionaire. However, such ownership of buildings etc. erected by the Concessionaire at the Project Site shall not be construed as and shall not confer any rights in the Project Site or other Port's Assets upon the Concessionaire, save as that of a bare licensee as provided for in this Agreement.

10.2 Permitted Charge on Assets

The Concessionaire shall be entitled to create a charge on its rights, title and interest in the assets referred to in Article 10.1(b) in favour of Lenders for securing the Financial Assistance provided or agreed to be provided by them under the Financing Documents. Provided, any such charge shall not be effective before Financial Close and shall not continue for a period exceeding the Concession Period.

Provided further, that such charge shall not be for the Project Site nor encumber the Project Site and / or the Port's Assets.

Provided further, in the event of termination of this Agreement, the said charge shall stand extinguished upon payment of compensation by the Concessioneing Authority to the Lenders, to the extent they are entitled to receive the same in accordance with the provisions of this Agreement.


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ARTICLE 11
SHAREHOLDING

11.1 Ownership Structure

The Applicant / Consortium has caused the Concessionaire to be incorporated as a special purpose company to implement, operate and maintain the Project / Project Facilities and Services in accordance with this Agreement. The shareholding pattern of Concessionaire is as shown below:

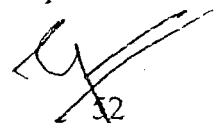

Name of the Entity	No. of Shares of Paid up Equity Capital	% of Shares of Paid up Equity Capital
ABG Infralogistics Ltd.	5100	51%
ABG-LDA Bulk Handling Pvt. Ltd.	4900	49%

11.2 Shareholding

The Concessionaire shall ensure that the Applicant / members of the Consortium maintain Management Control at least until expiry of the Exclusivity Period as also maintain their equity holding in the Concessionaire such that:

- (a) The Applicant / members of the Consortium legally and beneficially hold not less than 51% (fifty one percent) of its paid up equity capital until 3 (three) years after Date of Commercial Operations and not less than 26% (twenty six percent) of its paid up equity capital during the balance Concession Period; and
- (b) *M/s ABG Infralogistics Ltd. ("Lead Member") legally and beneficially holds at any time not less than 26% (twenty six percent) of the Consortium's holding in the paid up equity capital of the Concessionaire.*

Notwithstanding the aforesaid, any Transfer of shareholding in the Concessionaire and / or direct or indirect change in the Management Control of the Concessionaire, including by way of a restructuring or amalgamation, shall only be with the prior written approval of the Concessioneing Authority which consent shall not be withheld except (i) for reasons of national security; or (ii) if the Person proposed for assuming such Management Control would by virtue of the restrictions imposed under the Applicable Law or the conditions of bidding (including restrictions to avoid anti-competitive and monopolistic practice) and / or public policy be disqualified from undertaking the Project.



Provided, nothing contained in this Article shall preclude or prevent pledge of shares in the Concessionaire in favour of Lenders as security for the Financial Assistance subject to the enforcement and consequent Transfer thereof only with the prior written consent of the Concessioneing Authority as stated hereinbefore and in accordance with the Financing Documents.

11.3 Constituent Documents

The Concessionaire shall ensure that its Articles of Association ("AoA") adequately reflect the aforesaid and the relevant commitments, obligations and responsibilities of the Applicant / Consortium.

In particular, the AoA and the Memorandum of Association ("MoA") of the Concessionaire shall be amended within 3 (three) months of the Date of Award of Concession to include the terms and conditions regarding the composition of share-holding and management stipulated in this Agreement; and terms and conditions related to changes in the share-holding pattern stipulated in this Agreement. The Concessionaire shall submit the amended AoA and the MoA to the Concessioneing Authority as soon as may be reasonably possible.

Any subsequent change in the AoA or the MoA which alter the provisions required by this Article shall require the prior approval of the Concessioneing Authority and the AoA and MoA of the Concessionaire shall include a specific provision to this effect.



ARTICLE 12
GENERAL RIGHTS, DUTIES AND OBLIGATIONS

12.1 Of the Concessionaire

(a) Applicable Permits

The Concessionaire shall at all times during the Concession Period maintain and comply with the Applicable Permits.

(b) Taxes & duties

The Concessionaire shall during the Concession Period pay in a timely manner all taxes, duties, levies, VAT, cess and charges including but not limited to income tax, sales tax, excise duty, customs duty, service tax and octroi that may be levied, claimed or demanded from time to time by any Government Authority including any increase therein effected from time to time from any Government Authority, in respect of the Project/ the Project Facilities and Services.

(c) Insurance

(i) Insurance Requirement

The Concessionaire shall, at its cost and expense, purchase and maintain insurances as are prudent, including but not limited to the following:

- (a) builder's all risk insurance;
- (b) loss, damage or destruction of the Project Facilities and Services, at replacement value;
- (c) comprehensive third party liability insurance including injury or death to personnel of the Concessioning Authority and others who may enter the Project Site or the Port's Assets;
- (d) workmen's compensation insurance;
- (e) marine cum storage cum erection insurance; and
- (f) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets and the Concessioning Authority, its employees and agents engaged in or connected to the Project and the Project Site and Port Assets (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (e).

(ii) Insurance Cover & Insurance Companies

The Concessionaire shall insure all insurable assets comprised in the Port's Assets and / or the Project Facilities and Services and all insurable risks associated with the Project to the extent advisable in accordance with Good Industry Practice ("Insurance Cover").

(iii) Evidence of Insurance Cover

The Concessionaire shall, from time to time, provide to the Concessioneing Authority copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Concessionaire in accordance with this Agreement.

(iv) Application of Insurance Proceeds

Subject to the provisions of the Financing Documents, all moneys received under insurance policies shall be promptly applied by the Concessionaire towards repair or renovation or restoration or substitution of the Port Assets and the Project Facilities and Services or any part thereof which may have been damaged or destroyed and in respect of which the claim is lodged. The Concessionaire may designate the Lenders as the loss payees under the insurance policies/assign the insurance policies in their favour as security for the Financial Assistance. The Concessionaire shall carry out such repair or renovation or restoration or substitution to the extent possible in such manner that the Project Facilities and Services or any part thereof, shall, after such repair or renovation or restoration or substitution be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.

(v) Validity of the Insurance Cover

The Concessionaire shall pay the premium payable on such insurance policy(ies) so as to keep the policy(ies) in force and valid throughout the Concession Period and furnish copies of the same to the Concessioneing Authority. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 (ten) Days' clear notice of cancellation is provided to Concessioneing Authority in writing. If at any time the Concessionaire fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, the Concessioneing Authority may at its option purchase and maintain such insurance and all sums incurred by the Concessioneing Authority therefor shall be reimbursed with interest @ SBI PLR plus 2% (two percent) per annum by the Concessionaire forthwith on demand, failing which the same shall be recovered by the Concessioneing Authority by exercising right of set off or otherwise.



(vi) Waiver of Subrogation

All insurance policies procured in terms of the provisions hereof shall include a waiver of any right of subrogation of the insurers there under against, inter alia, the Concessioneing Authority and its assigns and successors and their respective subsidiaries, affiliates, employees and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

(d) Indemnification

The Concessionaire shall during the pendency of this Agreement and thereafter until all claims and demands in respect to the acts and omissions during the period of the Agreement as described hereunder are duly settled, indemnify and keep indemnified and otherwise save harmless, the Concessioneing Authority, its agents and employees, from and against all claims, demands made against and/or loss caused and/or damages suffered and/or cost, charges/expenses incurred to and/or penalty levied and / or any claim due to injury to or death of any person and/or loss or damage caused or suffered to property owned or belonging to the Concessioneing Authority, its agents and employees or third party as a result of any acts, deeds or thing done or omitted to be done by the Concessionaire or as a result of failure on the part of the Concessionaire to perform any of its obligations under this Agreement or on the Concessionaire committing breach of any of the terms and conditions of this Agreement or on the failure of the Concessionaire to perform any of its duties and/or obligations including statutory duties or as a consequence of any notice, action, suit or proceedings, given, initiated, filed or commenced by consignee or owner of goods or vessel owner / agent or its employees or any third party or Government Authority or as a result of any failure or negligence or default of the Concessionaire or its Contractor(s), sub-contractor(s), or employees, servants, agents of such Contractor(s) and / or sub-contractor(s) and / or invitees as the case may be, in connection with or arising out of this Agreement and / or arising out of or, in connection with the Concessionaire's use and occupation of the Project Site or Port's Assets and / or construction, operation and maintenance of the Project Facilities and Services.

(e) Assignability

Except as otherwise provided in this Agreement, the Concessionaire shall not assign its rights, title or interest in this Agreement in favour of any Persons without prior written consent of the Concessioneing Authority.

Provided the Concessionaire may assign its rights, interests and benefits under this Agreement to the Lenders as security for the Financial Assistance. Provided further nothing contained in this Article shall:

- (i) absolve the Concessionaire from its responsibilities to perform / discharge any of its obligations under and in accordance with the

provisions of this Agreement; and

- (ii) authorize or be deemed to authorize the Lenders to operate the Project Facilities and Services themselves and any such assignment to operate shall be in terms of the Substitution Agreement.

(f) Engagement of Contractors

Not Applicable

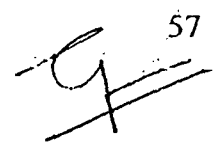
(g) Condition Survey

- (i) The Concessionaire agrees that at least 6 (six) Months prior to the expiry by efflux of time of the Concession Period, it shall, cause to be conducted at its cost by an Expert appointed by the Parties by mutual consent, a condition survey and an inventory of the entire Project Facilities and Services. If, as a result of such survey, the Expert shall observe / notice that the Port's Assets and / or the Project Facilities and Services or any part thereof have / has not been operated and maintained in accordance with the requirements therefor under this Agreement (normal wear and tear excepted) the Concessionaire shall, at its cost and expenses, take all necessary steps to put the same in good working condition well before the Transfer Date. In the event the Concessionaire fails to comply with this provision, the Concessioneing Authority may itself cause the condition survey and inventory of the Port's Assets and Project Facilities and Services to be conducted and remove any defect or deficiency. The Concessioneing Authority shall be promptly reimbursed by the Concessionaire for the costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities and Services in a good working condition.
- (ii) The Concessionaire shall as security for performance of its obligation in the preceding sub-article (i), provide / submit to the Concessioneing Authority a guarantee issued by a scheduled bank in India for a sum of Rs 57,250,000 (Rupees fifty seven million two hundred fifty thousand only) Only) at least 2 (two) years prior to the expiry of the Concession Period. In the event of Concessionaire's failure to provide such guarantee, the same shall be deemed to be a Concessionaire Event of Default and the Concessioneing Authority shall accordingly be entitled to terminate this Agreement in accordance with Article 15.

12.2 Of the Concessioneing Authority

(a) Assistance in obtaining Approvals, Permits and Licenses

The Concessioneing Authority shall, at the written request of the Concessionaire, but without guarantees and / or without assuming any responsibility in that behalf, issue recommendatory letters and make best efforts to assist the Concessionaire in obtaining all the Applicable Permits



including renewals thereof. Provided that, nothing contained in this Article shall relieve the Concessionaire of its obligations under this Agreement to obtain the Applicable Permits and to keep them in force and effect throughout the Concession Period.

(b) Taxes and Duties

Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of Port's Assets payable to the State Government or any statutory authority shall be met and paid by the Concessioneing Authority.

(c) Competing Facilities

The Concessioneing Authority shall not operationalise any additional facility within Port Limits for handling *multiurpose cargoes other than liquid and container cargoes* either on its own or through any other Person until the earlier of (i) 5 (five) years from the Scheduled Project Completion Date; or (ii) the average annual volume of cargo handled at the Project Facilities and Services reaches a level of 75% (seventy five percent) of Project Capacity for 2 (two) consecutive years ("Exclusivity Period"). Provided, this restriction shall not apply to the additional facility envisaged as below:

- i) *Mechanization of Coal handling facilites and upgradation of General Cargo berth (GCB) at outer harbour of Visakhapatnam Port to cater to 200,000 DWT vessels on DBFOT basis.*
- ii) *Installation of Mechanized fertilizer handling facility at EQ7 in the inner harbour of Visakhapatnam Port on DBFOT basis.*
- iii) *Development of meachanized handling facility at WQ1 berth for handling iron ore at inner harbour of Visakhapatnam Port on DBFOT basis.*
- iv) *Development of EQ-1A berth on the south side of East Quay in inner harbour of Visakhapatnam Port for handling Thermal Coal and Steam Coal on Design, Build, Finance, Operate and Transfer (DBFOT) basis*
- v) *Development of EQ-1berth by replacing the existing EQ1 berth and part of EQ2 berth for handling Steam Coal in inner harbour of Visakhapatnam Port on Design, Build, Finance, Operate and Transfer (DBFOT) basis*
- vi) *Development of WQ8 berth including mechanized handling facility in the northern arm of inner harbour of Visakhapatnam Port for handling Alumina, Caustic Soda and related bulk cargoes on DBFOT basis.*
- vii) *Development of WQ7 berth including mechanized handling facility in the northern arm of inner harbour of Visakhapatnam Port for handling bulk cargo including Alumina, Caustic Soda and other bulk cargoes on DBFOT basis.*

- viii) *Development of EQ10 berth in the northern arm of inner harbour of Visakhapatnam Port for handling liquid cargo on DBFOT basis.*

(d) General rights of inspection and verification

The Concessioneing Authority may during the pendency of the Agreement itself or by appointment of Experts verify the performance of obligations of the Concessionaire as set out in this Agreement.

- (e) *The Concessioneing Authority at the discretion of the Central / State Government may induct CISF or such other force as the Central / State Government decides whenever necessary for security in the Project Site / Project Assets at the cost of the Concessioneing Authority.*

12.3 Of the Concessioneing Authority and the Concessionaire

(a) Compliance with Laws and Regulations

The Parties shall perform their respective obligations under this Agreement in accordance with the Applicable Laws and Applicable Permits.

(b) Rights to Documents

(i) Concessioneing Authority's Documents

Documents and computer programs or copies thereof, if any, provided by the Concessioneing Authority to the Concessionaire, shall always remain the property of the Concessioneing Authority. Such documents, computer programs and/or copies shall not be used by the Concessionaire for the purposes other than for the Project. Such documents, computer programs and/or copies thereof shall, unless otherwise agreed upon by the Concessioneing Authority, be returned by the Concessionaire to the Concessioneing Authority on the Transfer Date.

(ii) Concessionaire's Documents

Documents and computer programs provided by the Concessionaire, or which are developed (and owned by the Concessionaire) for operation and / or maintenance of the Project / the Project Facilities and Services shall be handed over by the Concessionaire to the Concessioneing Authority free of cost on the Transfer Date.

(iii) Confidentiality

All confidential information and documents (whether financial, technical or otherwise) provided by either Party to the other shall not, unless compelled by law or the process of a Government



Authority, be disclosed to any Person without the consent of the other Party with the exception of providing such information to legal advisors / auditors of the concerned party on a need-to-know basis. This covenant shall survive the Concession Period.

(iv) Obligation to Cooperate

The Parties shall mutually cooperate with each other in order to achieve the objectives of this Agreement.

(v) Substitution Agreement

The Substitution Agreement envisaged by Appendix 3 hereunder, will / may be executed within 30 (thirty) Days' of notice by the Concessionaire to the Concessioneing Authority of the Lenders' readiness to execute the same.

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ARTICLE 13

CHANGE IN LAW

13.1 Change in Law

"Change in Law" means any of the following events which has a Material Adverse Effect:

- (a) adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government Authority of any statute, rule, ordinance, regulation or order, treaty, convention, directive, guideline, policy having force of law; or
- (b) the imposition by any Government Authority of any material condition (other than a condition which has been imposed as a consequence of a violation by the Concessionaire of any Applicable Permit) in connection with the issuance, renewal or modification of any Applicable Permits after the date of this Agreement which renders the performance by the Concessionaire of any of the terms of this Agreement impossible or unviable; or
- (c) any Applicable Permit previously granted, ceasing to remain in full force and effect for reasons other than breach / violation by or the negligence of the Concessionaire or if granted for a limited period, being renewed on terms different from those previously stipulated.

Provided any (i) imposition of new taxes, duties, cess and the like and / or the increase in taxes, duties, cess and the like effected from time to time by any Government Authority, and / or (ii) imposition of standards and condition of operations, maintenance and safety arising out of a new or revised Environmental Law; and / or (iii) imposition of standards and terms of employment and working conditions of labourers and Workmen; and / or (iv) any rules or regulations stipulated by TAMP or other regulatory authority having jurisdiction over the Project in respect of the standards of service shall not constitute a Change in Law.

13.2 The Concessionaire's Remedy

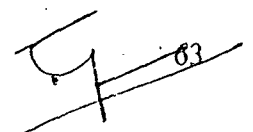
- (a) In the event of Change in Law the Concessionaire may propose to the Concessioneing Authority modifications to the relevant terms of this Agreement which are reasonable and intended to mitigate the effect of the Change in Law. Thereupon, the Parties shall, in good faith, negotiate and agree upon suitable changes in the terms of this Agreement including extension of the Concession Period, so as to place the Concessionaire in substantially the same legal and financial position as it were prior to such Change in Law. Provided however, that if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance, the Change in Law shall be deemed to be a Political Event, whereupon the provisions with respect thereto shall apply.

- (b) In the alternative to the aforesaid, subject to the Concessionaire taking necessary measures to mitigate the impact or the likely impact of Change in Law on the Project, if as a direct consequence of a Change in Law, the Concessionaire is obliged to incur Additional Cost in any accounting year, any such Additional Cost above a sum of Rs.57.25 million may at the option of the Concessioneing Authority be borne by the Concessioneing Authority. It is clarified that Additional Cost upto Rs. 57.25 (Rupees fifty seven decimal two five only) million in any accounting year shall be borne by the Concessionaire;
- (c) Upon occurrence of a Change in Law, the Concessionaire shall notify the Concessioneing Authority, of the following:
- (i) the particulars, nature and the impact of Change in Law on the Project;
 - (ii) in sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of the Change in Law; and
 - (iii) the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the Additional Cost.
- (d) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to the preceding sub-article(c), the Concessioneing Authority and the Concessionaire shall hold discussions and take all such steps as may be necessary including determination / certification by an Expert, appointed by the Parties by mutual consent, of the Additional Cost and to determine the quantum of the Additional Cost to be incurred.
- (e) If it is determined that the only material impact of a Change in Law is Additional Cost and the Concessioneing Authority opts to compensate the same in accordance with the preceding sub-article (b), the Concessionaire shall not be entitled to any other remedy nor shall seek any alterations to the Agreement and the Concessioneing Authority shall, within 30 (thirty) Days from the date of determination of quantum of Additional Cost to be borne by the Concessioneing Authority in accordance with sub-article (b) above, compensate the Concessionaire in either of the following ways:
- (i) by lump-sum reimbursement of such Additional Cost to the Concessionaire;
 - (ii) reimbursement of the such Additional Cost to the Concessionaire, in not exceeding four half yearly installments, subject to payment of interest at SBI PLR + 2% (two percent) on the amount the payment of which is deferred.

Notwithstanding the aforesaid, if in terms of Good Industry Practice, the event constituting a Change in Law could be insured, the Concessionaire shall not be entitled to any remedy under this Article 13.2;

If as a result of Change in Law, the Concessionaire incurs a reduction in costs or other financial gain or benefit in connection with its development or operation of the Project, the aggregate financial effect of which exceeds Rs. 80.15 million (Rupees eighty decimal one five million only) in any Financial Year, the Concessionaire shall notify the Concessioneing Authority and pay to the Concessioneing Authority an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other financial gain or benefit as aforesaid. Without prejudice to the aforesaid, the Concessioneing Authority may, by notice in writing require the Concessionaire to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other gain or benefit.

The Concessionaire shall make payment of such compensation within sixty (60) Days of the said financial benefit. If the Concessionaire shall dispute the quantum of such compensation claim of the Concessioneing Authority, the same shall be finally settled in accordance with the dispute resolution mechanism contained in Article 19 herein.



ARTICLE 14

FORCE MAJEURE

14.1 Force Majeure Event

As used in this Agreement, Force Majeure Event means the occurrence of any of the Non-Political Events, the Political Events or the Other Events in India, set out in Articles 14.2, 14.3 and 14.4 respectively including the impact / consequence thereof which:

- (a) is beyond the control of the Party claiming to be affected thereby (the "Affected Party");
- (b) prevents the Affected Party from performing or discharging its obligations under this Agreement; and
- (c) the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence.

14.2 Non-Political Events

Any of the following events which prevent the Affected Party from performing any of its obligations for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute a Non-Political Event:

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Project Site and by reasons not attributable to the Concessionaire or the Contractor or any of the employees or agents of the Concessionaire or the Contractor);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees / representatives, or attributable to any act or omission of any of them), and not being an Other Event set forth in Article 14.4, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;
- (c) any failure or delay of a Contractor caused by any of the Non-Political Events, for which no offsetting compensation is payable to the Concessionaire or on behalf of the Contractor;
- (d) the discovery of geological conditions, toxic contamination or archeological remains on the Project Site that could not reasonably have been expected to be discovered through a site inspection; or

- (e) any event or circumstance of a nature analogous to any of the foregoing.

14.3 Political Events

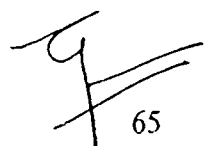
Any of the following events shall constitute Political Event:

- (a) Change in Law for which no relief is provided under the provisions of Article 13, resulting in Material Adverse Effect;
- (b) action of a Government Authority having Material Adverse Effect including but not limited to (i) acts of expropriation, compulsory acquisition or takeover by any Government Authority of the Project / Project Facilities and Services or any part thereof or of the Concessionaire's or the Contractor's rights under any of the Project Contracts, and (ii) any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than the Concessionaire's or the Contractor's breach or failure in complying with the Project Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound;
- (c) early determination of this Agreement by the Concessioneing Authority for reasons of national emergency, national security or the public interest;
- (d) any failure or delay of a Contractor caused by any of the aforementioned Political Events, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor; or
- (e) any event or circumstance of a nature analogous to any of the foregoing.

14.4 Other Events

Any of the following events which prevents the Affected Party from performing any of its obligations under this Agreement for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute the Other Event:

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) industry wide or State wide strikes or industrial action;
- (c) any civil commotion, boycott or political agitation which prevents collection of Fee by the Concessionaire;



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- (d) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire; and any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire other than relating to proceedings (i) pursuant to failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement or (iv) with respect to exercise of any of its rights under this Agreement by the Concessioneing Authority; or
- (e) any event or circumstance of a nature analogous to any of the foregoing.

14.5 Notice of Force Majeure Event

- (a) The Affected Party shall give written notice to the other Party in writing of the occurrence of any of the Force Majeure Event (the "Notice") as soon as the same arises or as soon as reasonably practicable and in any event within 7 (seven) Days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the adverse effect it has or is likely to have on the performance of its obligations under this Agreement.
- (b) The Notice shall inter-alia include full particulars of:
 - (i) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof;
 - (ii) the duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party's ability to perform its obligations or any of them under this Agreement;
 - (iii) the measures which the Affected Party has taken or proposes to take, to alleviate the impact of the Force Majeure Event or to mitigate the damage; and
 - (iv) any other relevant information.
- (c) So long as the Affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Party with periodic fortnightly written reports containing the information called for by Article 14.5(b) and such other information as the other Party may reasonably request.

14.6 Period of Force Majeure

Period of Force Majeure shall mean the period from the time of occurrence specified in the Notice given by the Affected Party in respect of the Force Majeure Event until the earlier of:

- (a) expiry of the period during which the Affected Party is excused from performance of its obligations in accordance with Article 14.7; or
- (b) termination of this Agreement pursuant to Article 14.10 hereof.

14.7 Resumption of Performance

During the period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

14.8 Performance Excused

The Affected Party, to the extent rendered unable to perform its obligations or part thereof under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of the obligations. Provided that, the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Provided further, nothing contained herein shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

14.9 Costs, Revised Timetable

- (a) **Costs**
Each Party shall bear its costs, if any, incurred as a consequence of the Force Majeure Event.
- (b) **Extension of time / period**

The Affected Party shall be granted by the other Party, extension of time specified in this Agreement for the performance of any obligation by such period not exceeding the period during which the relative performance was affected by the Force Majeure Event. Such extension may include extension of the Concession Period by the Concessions Authority in appropriate cases if permissible under Applicable Law.

14.10 Termination Due to Force Majeure Event

If the period of Force Majeure continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 (one hundred and twenty) Days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 (one hundred and twenty) Days be entitled to terminate the Agreement in which event, the provisions of Articles 16 and 17 shall, to the extent expressly made applicable, apply.

ARTICLE 15
EVENTS OF DEFAULT

15.1 Events of Default

Event of Default means the Concessionaire Event of Default or the Concessioneing Authority Event of Default or both as the context may admit or require.

(a) The Concessionaire Event of Default

The Concessionaire Event of Default means any of the following events unless such an event has occurred as a consequence of the Concessioneing Authority Event of Default or a Force Majeure Event:

- (i) the Concessionaire's failure to perform or discharge any of its obligations in accordance with the provisions of this Agreement;
- (ii) construction at the Project Site is abandoned for a more than 90 (ninety) Days during the Construction Phase;
- (iii) a delay of more than 180 (one hundred and eighty) Days from any Milestone Date in achieving any of the performance obligations set forth for the relevant Milestone Date or the Date of Commercial Operations is delayed for more than 180 (one hundred and eighty) Days from the Scheduled Project Completion Date;
- (iv) Delay in payment of Royalty for 2 (two) consecutive Months or more than (5) (five) times in the aggregate during the Concession Period.
- (v) the Concessionaire's failure to perform or discharge any of its obligations under any other Project Contract, which has or is likely to affect the Project / the Project Facilities and Services, materially;
- (vi) Not Applicable
- (vii) the Concessionaire fails to achieve Minimum Guaranteed Cargo for a consecutive period of 3 (three) years. Provided, the Concessionaire shall not be deemed to be in default if such non achievement is due to a substantial change in economic policies including the policy regarding import / export of a particular commodity as a result of which the throughput could not be achieved;

- (viii) any representation made or warranties given by the Concessionaire under this Agreement is found to be false or misleading;
- (ix) the Concessionaire passing a resolution for voluntary winding up;
- (x) appointment of a provisional liquidator, administrator, trustee or receiver of the whole or substantially whole of the undertaking of the Concessionaire by a court of competent jurisdiction in proceedings for winding up or any other legal proceedings;
- (xi) occurrence of default under the Financing Documents pursuant to which the Lenders exercise their rights to substitute the Concessionaire in accordance with the provisions of the Substitution Agreement;
- (xii) levy of an execution or restraint on the Concessionaire's assets which has or is likely to have Material Adverse Effect and / or affect the Project / Project Facilities and Services, materially and such execution or restraint remaining in force for a period exceeding 90 (ninety) Days;
- (xiii) the Performance Guarantee is not maintained in terms of the provisions hereof;
- (xiv) the Concessionaire abandons or expresses its intention to revoke / terminate this Agreement without being entitled to do so as is expressly provided in the Agreement;
- (xv) a change in shareholding such that the beneficial interest of the Applicant / Consortium in the Concessionaire reduces below the limits set in Article 11.2 and / or Management Control of the Concessionaire has occurred in contravention of the provisions of Article 11 hereof;
- (xvi) amalgamation of the Concessionaire with any other company or reconstruction or transfer of the whole or part of the Concessionaire's undertaking other than transfer of assets in the ordinary course of business in contravention with the provisions of Article 11 hereof; and
- (xvii) the Concessionaire engaging or knowingly allowing any of its employees, agents, Contractors or representatives to engage in any activity prohibited under this Agreement and / or by law or which constitutes a breach of the Agreement or breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.



(b) The Concessioneing Authority Event of Default

- (i) the Concessioneing Authority's failure to perform or discharge its obligations in accordance with the provisions of this Agreement unless such failure has occurred as a consequence of any Concessionaire Event of Default or a Force Majeure Event.
- (ii) any representation made or warranties given by the Concessioneing Authority under this Agreement is found to be false or misleading.
- (iii) appointment of a provisional liquidator, administrator or receiver of the whole or part of the Port's Assets in any legal proceedings initiated against the Concessioneing Authority (unless such proceedings are initiated as a consequence of any Concessionaire Event of Default).
- (iv) levy of an execution or distraint on the Port's Assets in any proceedings against the Concessioneing Authority (unless such proceedings are initiated as a consequence of any Concessionaire Event of Default) which has or is likely to have Material Adverse Effect and such execution or distraint remaining in force for a period exceeding 90 (ninety) Days.

15.2 Parties Rights

- (a) Upon the occurrence of the Concessionaire Event of Default, the Concessioneing Authority shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.
- (b) Upon the occurrence of the Concessioneing Authority Event of Default, the Concessionaire shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.

Provided that before proceeding to terminate this Agreement, the Party entitled to do so shall give due consideration and shall have due regard to the nature of the underlying Event of Default, its implication on the performance of the respective obligations of Parties under this Agreement and the circumstances in which the same has occurred.

15.3 Consultation Notice

Either Party exercising its right under Article 15.2, shall issue to the other Party a notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties and the Lenders to consider possible measures of curing or otherwise dealing with the underlying Event of Default ("Consultation Notice").

15.4 Remedial Process

Following the issue of Consultation Notice by either Party, within a period not exceeding 90 (ninety) Days or such extended period as the Parties may agree ("Remedial Period") the Parties shall, in consultation with the Lenders, endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying Event of Default. Without prejudice to this, if the underlying Event is a Concessionaire Event of Default, the Concessioning Authority shall in consultation with the Lenders endeavour to arrive at an agreement as to one or more of the following measures and / or such other measures as may be considered appropriate by them in the attendant circumstances:

- (a) the change of management or control/ownership of the Concessionaire;
- (b) the replacement of the Concessionaire by a new operator ("Selectee") proposed by the Lenders (in terms of the Substitution Agreement), and the specific terms and conditions of such replacement which shall include :
 - (i) the criteria for selection of the Selectee;
 - (ii) the transfer of rights and obligations of the Concessionaire surviving under this Agreement to the Selectee;
 - (iii) handing over / transfer of the Project Site, the Port's Assets and the Project Facilities and Services to the Selectee;
 - (iv) acceptance by the Selectee of the outstanding obligations of the Concessionaire under the Financing Documents and preserving Lenders' charge on the Concessionaire's assets;
 - (v) acceptance by the Selectee of any amounts due to the Concessioning Authority from the Concessionaire under this Agreement; and
 - (vi) payment of consideration for the Concessionaire's assets comprised in the Project Facilities and Services and the manner of appropriation thereof.

15.5 Obligations during Remedial Period

During the Remedial Period, the Parties shall continue to perform their respective obligations under this Agreement which can be performed, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure / breach.

15.6 Revocation of Consultation Notice

If during the Remedial Period the underlying Event of Default is cured or waived or the Parties and the Lenders agree upon any of the measures set out in Article 15.4, the Consultation Notice shall be withdrawn in writing by the Party who has issued the same.



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15.7 Termination due to Events of Default

If before the expiry of the Remedial Period, the underlying Event of Default is neither cured nor waived nor the Parties and the Lenders have agreed upon any of the measures in accordance with Article 15.4, the Party who has issued the Consultation Notice shall have the right to terminate this Agreement, in which event, the provisions of Article 16 and 17 shall, to the extent expressly made applicable, apply.

15.8 Concessioneing Authority's Rights of Step-in

Upon a Termination Notice being issued due to a Concessionaire Event of Default, the Concessioneing Authority may, at its discretion:

- (a) re-enter upon and take possession and control of Project Site / Project Facilities and Services forthwith;
- (b) prohibit the Concessionaire and any Person claiming through or under the Concessionaire from entering upon / dealing with the Project Facilities and Services;
- (c) step in and succeed upon election by Concessioneing Authority without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Contracts as the Concessioneing Authority may in its discretion deem appropriate with effect from the date of communication of such election to the counter party to the relative Project Contracts.

Provided, that in such circumstances, the Concessioneing Authority shall assume the obligations of the Concessionaire with respect to the Lenders during such Remedial Period out of the current revenues. Provided further, the Concessionaire acknowledges that any payments made by the Concessioneing Authority during the Remedial Period shall be adjusted against compensation payable by the Concessioneing Authority to the Concessionaire in terms of the provisions of this Agreement.



ARTICLE 16

TERMINATION OF THE CONCESSION / AGREEMENT

16.1 Termination Procedure

The Party entitled to terminate this Agreement either on account of a Force Majeure Event or on account of an Event of Default shall do so by issue of a notice in writing ("Termination Notice") to the other Party and simultaneously deliver a copy thereof to the Lenders. The Termination Notice shall be of not less than 90 (ninety) Days and not ordinarily be more than 180 (one hundred and eighty) Days, ("Termination Period") and at the expiry of the Termination Period, this Agreement shall stand terminated without any further notice.

16.2 Obligations during Termination Period

During Termination Period, the Parties shall subject where applicable to the provisions of this Article 16, continue to perform such of their respective obligations under this Agreement which are capable of being performed with the object, as far as possible, of ensuring continued availability of the Project Facilities and Services to the users, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

16.3 Requisition

Except where the Termination Notice is issued prior to Financial Close being achieved by the Concessionaire, when the Concession has not come into effect the Concessionaire has no right hereunder and no compensation is payable by the Concessioneing Authority, upon issue or receipt as the case may be of Termination Notice, either as a consequence of a Force Majeure Event or as a consequence of an Event of Default, or otherwise 6 (six) months prior to the expiry of the Concession Period, the Concessioneing Authority shall by a notice in writing ("Requisition") call upon the Concessionaire to furnish the following information to enable the Concessioneing Authority to estimate the likely compensation payable by the Concessioneing Authority to the Concessionaire and/or to finalise the items of Concessionaire's assets comprised in the Project Facilities and Services to be handed over to/taken over by the Concessioneing Authority.

- (a) except in cases where no Financial Close has been achieved, the particulars of Debt Due supported by Lenders' certificate;
- (b) data or records including test certificates survey reports, inspection reports, statutory certificates issued for operation and establishment of the Project Facilities and Services regarding the operation and maintenance.
- (c) specifications regarding the Concessionaire's assets comprised in the Project Facilities and Services; and


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- (d) any other information or records regarding Concessionaire, its business, the Project/Project Facilities and Services, assets and liabilities.

The Concessionaire shall within a period of 30 (thirty) Days of receipt of Requisition furnish the particulars called for by the Concessioneing Authority.

16.4 Condition Survey

- (a) The Concessionaire agrees that on the service of a Termination Notice or at least 6 (six) months prior to the expiry of the Concession Period, as the case may be, it shall conduct or cause to be conducted under the Concessioneing Authority's supervision, a condition survey of the Project Facilities and Services including the Project Site and / or the Port's Assets to ascertain the condition thereof, verifying compliance with the Concessionaire's obligations under this Agreement and to prepare an inventory of the assets comprised in the Project Facilities and Services. During this period, the designated key personnel of the Concessioneing Authority shall be associated with the operations of the Project Facilities and Services (except when the same is impossible due to a Force Majeure Event) in order to facilitate smooth take over of the same by the Concessioneing Authority on the Transfer Date.
- (b) If, as a result of the condition survey, the Concessioneing Authority shall observe / notice that the Project Site and / or the Port's Assets and / or the Project Facilities and Services or any part thereof have / has not been operated and maintained in accordance with the requirements therefor under this Agreement (normal wear and tear excepted) the Concessionaire shall, at its cost and expenses, take all necessary steps to put the same in good working conditions well before the Transfer Date.
- (c) In the event the Concessionaire fails to comply with the provisions of this Agreement, the Concessioneing Authority may itself cause the condition survey and inventory of Port's Assets and the Project Facilities and Services to be conducted. The Concessioneing Authority shall be compensated by the Concessionaire for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities and Services in good working condition.

16.5 Consequences of Termination

Without prejudice to any other consequences or requirements under this Agreement or under any law:

- (a) the Concessionaire shall transfer all the assets and rights upon expiry of the Concession Period by efflux of time or termination of the Agreement due to a Force Majeure Event or on account of an Event of Default in accordance with Article 18;


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- (b) the Concessioneing Authority shall be entitled to encash any subsisting bank guarantee(s) provided by the Concessionaire against any amounts owing to the Concessioneing Authority by the Concessionaire.

Notwithstanding anything contained in this Agreement, except for ensuring the deposit of the compensation payable to the Concessionaire in accordance with Article 17 in the Escrow Account, the Concessioneing Authority shall not, as a consequence of termination or otherwise, have any obligation whatsoever to any third party including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handback of the Project Site / Port Assets / Project Facilities & Services by the Concessionaire to the Concessioneing Authority shall be free from any such obligation.



ARTICLE 17
COMPENSATION

17.1 Compensation

(a) Termination due to Force Majeure Event

- (i) If the termination is due to a Non Political Event, compensation payable to the Concessionaire shall be the lower of the Book Value or the Debt Due LESS any amount due to the Concessioneing Authority by the Concessionaire under this Agreement LESS all insurance claims received or admitted.
- (ii) If the termination is due to a Other Event compensation payable to the Concessionaire shall be the higher of the Book Value or the Debt Due LESS any amount due to the Concessioneing Authority by the Concessionaire under this Agreement LESS all insurance claims received or admitted. Provided, the Book Value or the Debt Due, as the case may be shall not exceed the Actual Project Cost.
- (iii) If termination is due to a Political Event, compensation payable to the Concessionaire shall be the same as that stipulated for termination due to a Concessioneing Authority Event of Default under Article 17.1 (c).

Provided, no compensation shall be payable to the Concessionaire if the Concessionaire fails to maintain Insurance Cover as contemplated under Article 12 of this Agreement.

(b) Termination due to Concessionaire Event of Default

If the termination is after the Date of Commercial Operation, due to a Concessionaire Event of Default, the compensation payable by the Concessioneing Authority to the Concessionaire shall be the lowest of:

- (i) the Book Value;
- (ii) 90% (ninety percent) of Debt Due;
- (iii) the Actual Project Cost;

Provided, no compensation shall be payable to the Concessionaire if the Concessionaire fails to maintain Insurance Cover as contemplated under Article 12 of this Agreement.



(c) **Termination due to Concessioneing Authority Event of Default**

If the termination is due to a Concessioneing Authority Event of Default, the compensation payable by the Concessioneing Authority shall be equal to the aggregate of (i) Debt Due plus (ii) 150% (one hundred and fifty percent) Equity.

17.2 No Compensation on Expiry of Concession Period

In the event of expiry of Concession by efflux of time (the Concession having run its full course), the Concessionaire shall hand over/ transfer peaceful possession of the Project Site, Port's Assets and the Project Facilities and Services free of cost and Encumbrances.

17.3 Transfer Fee and Charges

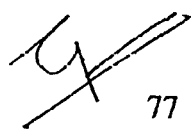
Transfer costs, stamp duties, notary fees and taxes, if applicable, for the transfer of the Project Facilities and Services consequent to the expiry or termination of this Agreement shall be borne by:

- (a) the Concessionaire in the event of expiry of Concession Period or termination due to a Concessionaire Event of Default;
- (b) the Concessioneing Authority in the event of termination due to a Concessioneing Authority Event of Default or Political Event; and
- (c) by both parties equally in case of termination due to Change in Law or Non Political Event or Other Event.

17.4 Payment of Compensation to Lenders

The Concessionaire hereby irrevocably authorises the Concessioneing Authority to pay to the Lenders or at their instruction to any designated bank account in India the compensation payable to the Concessionaire. The Concessionaire confirms that upon such payment being made, the Concessioneing Authority shall stand duly discharged of its obligations regarding payment of compensation under this Agreement and the charge created by the Concessionaire in favour of the Lenders on any of its assets taken over by the Concessioneing Authority shall stand satisfied and all such assets shall on and from the Transfer Date be free from such charge. The Concessionaire further confirms that payment of compensation by Concessioneing Authority in accordance with this Article 17.4 shall be a valid discharge to the Concessioneing Authority in respect of Concessioneing Authority's obligation regarding payment of compensation to the Concessionaire under this Agreement.

Provided notwithstanding anything inconsistent contained in this Agreement, the Concessionaire / the Lenders as the case may be shall be entitled to remove at its / their cost all such moveables which are not taken over by the Concessioneing Authority and to deal with the same in accordance with their respective rights under law.


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Provided further, if there are no amounts outstanding under the Financing Documents and a certificate to that effect issued by the Lenders is furnished by the Concessionaire to the Concessioneing Authority, the compensation shall be paid by the Concessioneing Authority to the Concessionaire directly.

17.5 Delayed Payment of Compensation

If for any reasons, other than those attributable to the Concessionaire, the Concessioneing Authority fails to pay the compensation on the Transfer Date, the Concessioneing Authority shall be liable to pay interest@ SBI PLR plus 2% (two percent) per annum thereon from the Transfer Date till payment thereof. Provided, nothing contained in this Article shall be deemed to authorise any delay in payment of compensation in accordance with this Agreement.

17.6 Delayed Transfer of Assets

If for any reasons other than those attributable to the Concessioneing Authority the Concessionaire fails to transfer assets, rights and contracts on the Transfer Date in accordance with Article 16.5 read with Article 18, there shall be no suspension of the operation and maintenance of the Project Facilities and Services and the Concessionaire shall, as a trustee of the Concessioneing Authority, (a) continue to operate and maintain the Project Facilities and Services or such of them, as directed by Concessioneing Authority until completion of the relative transfer formalities and (b) account for and pay to the Concessioneing Authority the Gross Revenue minus operating costs and statutory dues, from such operations. In the event of failure to do so, the Concessionaire shall be liable to pay to the Concessioneing Authority, for every Day of delay, liquidated damages computed at the rate of the average daily profits earned during the 3 (three) years immediately preceding the Transfer Date. Parties confirm that this is a true and correct estimate of damages and not in the nature of a penalty. Provided nothing contained in this Article 17.6 shall be deemed or construed to authorise delay in completion of formalities of transfer of assets, rights and contracts by the Concessionaire to the Concessioneing Authority in accordance with the requirements thereof under this Agreement.

In case the transfer of assets by the Concessionaire to the¹ Concessioneing Authority is delayed for reasons attributable to the Concessioneing Authority, the Concessionaire shall nonetheless continue to operate the Project Facilities and Services but as agent of the Concessioneing Authority. Provided however, the Concessionaire shall be liable to pay Royalty in accordance with Article 9.2.

17.7 Remedies Cumulative

The exercise of right by either Party to terminate this Agreement, as provided herein, shall not preclude, such Party from availing any other rights or remedies that may be available to it under law. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

ARTICLE 18

TRANSFER ON EXPIRY OF THE CONCESSION PERIOD

18.1 General Scope of Transfer/Payment

The Parties shall perform / discharge their respective obligations to be performed or discharged under the provisions of this Agreement on the Transfer Date in entirety. Without prejudice to the generality of this provision and the provisions of Article 16, the transactions to be consummated and the formalities to be completed by the Parties on the Transfer Date shall be as set out in Articles 18.2 and 18.3.

18.2 Concessionaire's Obligations

The Concessionaire shall;

- (a) hand over peaceful possession of the Project Site, Port's Assets, the Project and the Project Facilities and Services free of Encumbrance;
- (b) transfer all its rights, titles and interests in the assets comprised in the Project Facilities and Services which are required to be transferred to the Concessioneing Authority in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard;
- (c) hand over to the Concessioneing Authority all documents including as built drawings, manuals and records relating to operation and maintenance of the Project Facilities and Services;
- (d) transfer technology and up-to-date know-how relating to operation and maintenance of the Port's Assets and / or the Project Facilities and Services;
- (e) transfer or cause to be transferred to the Concessioneing Authority any Project Contracts which are (i) valid and subsisting; (ii) capable of being transferred to the Concessioneing Authority; and (iii) those the Concessioneing Authority has chosen to take over, and cancel or cause to be cancelled such Project Contracts not transferred to the Concessioneing Authority. For this purpose, the Concessionaire shall ensure that all Project Contracts are assignable in favor of the Concessioneing Authority without any further action on part of the respective counterparties. The Concessionaire shall entirely at its cost, terminate all such Project Contracts which are not transferred/assigned and / or are not required to be transferred / assigned to the Concessioneing Authority;
- (f) at its cost, transfer to the Concessioneing Authority all such Applicable Permits which the Concessioneing Authority may require and which can be legally transferred. Provided if the termination is on account of Concessioneing Authority Event of Default the cost of such transfer shall be borne/ reimbursed by the Concessioneing Authority;


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- (g) at its cost, remove within 90 (ninety) days from expiry of the Concession Period, from the Project Site / Port's Assets, any moveable assets that are not taken over by or not to be transferred to the Concessioneing Authority in terms of the provisions of this Agreement.

18.3 Concessioneing Authority's Obligations

Except in the event of expiry of the Concession by efflux of time, the Concessioneing Authority shall pay compensation payable to the Concessionaire in accordance with Article 17.1 of this Agreement, to the Lenders, or deposit the same in the Escrow Account or on the written instructions of the Lenders to any designated bank account in India, or to the Concessionaire, as the case may be. The Concessionaire confirms that upon such payment being made, the Concessioneing Authority shall stand duly discharged of its obligations regarding payment of compensation under this Agreement and the charge created by the Concessionaire in favour of the Lenders on any of the assets shall stand satisfied and all such assets shall on and from the Transfer Date be free from such charge.

The Concessionaire further confirms that payment of compensation by Concessioneing Authority in accordance with this Article 18.3 shall be a valid discharge to the Concessioneing Authority in respect of Concessioneing Authority's obligation regarding payment of compensation to the Concessionaire under this Agreement.

18.4 Risk

Until transfer in accordance with this Article 18, the Port's Assets and the Project Facilities and Services shall remain at the sole risk of the Concessionaire except for any loss or damage caused to or suffered by the Concessionaire due to any act or omission or negligence on the part of the Concessioneing Authority under this Agreement.



ARTICLE 19

DISPUTE RESOLUTION

19.1 Amicable Settlement

If any dispute or difference or claims of any kind arises between the Concessioneing Authority and the Concessionaire in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any Party under this Agreement, whether before or after the termination of this Agreement, then the Parties shall meet together promptly, at the request of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

19.2 Assistance of Expert

The Parties may, in appropriate cases agree to refer the matter to an Expert appointed by them with mutual consent. The cost of obtaining the service of the Expert shall be shared equally.

19.3 Arbitration

(a) Arbitrators

Failing amicable settlement and/or settlement with the assistance of Expert appointed by the Parties by mutual consent, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. Unless the Parties mutually agree otherwise, within 30 (thirty) Days of invocation of the arbitration as mentioned below, the rules of arbitration prescribed by the International Centre for Alternative Dispute Resolution, New Delhi shall apply to the arbitration. The arbitration shall be by a panel of three Arbitrators, one to be appointed by each Party and the third, who shall act as presiding arbitrator, to be appointed by the two arbitrators appointed by the Parties. The arbitration shall be invoked by one party issuing to the other a notice in writing invoking the arbitration and appointing an Arbitrator. Upon receipt of the notice, the other Party shall appoint the second Arbitrator. The two Arbitrators so appointed shall appoint the third Arbitrator who shall act as the 'Presiding Arbitrator'. If the other Party fails to appoint a second Arbitrator within 30 (thirty) Days from the receipt of the request to do so, then the Arbitrator so appointed by the first party shall adjudicate the disputes as 'Sole Arbitrator'.



(b) Place of Arbitration

The place of arbitration shall be the headquarters of the Concessioneing Authority in India.

(c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Procedure

The procedure to be followed within the arbitration, including appointment of arbitrator / arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996.

(e) Enforcement of Award

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

(f) Fees and Expenses

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid equally by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the successful party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by the Party.

(g) Performance during Arbitration

Pending the submission of and/or decision on a dispute, difference or claim or until the arbitral award is published, the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.



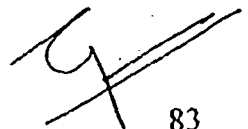
ARTICLE 20

REPRESENTATIONS AND WARRANTIES

20.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Concessioneing Authority that:

- (a) it is duly organised, validly existing and in good standing under the laws of India and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (d) this Agreement constitutes the legal, valid and binding obligation of the Concessionaire, enforceable against it in accordance with the terms hereof;
- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement;
- (f) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum of association and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Authority which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;



- (i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (j) all its rights and interests in the Project/Project Facilities and Services shall pass to and vest in the Concessioneing Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Concessioneing Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;
- (k) no representation or warranty by it contained herein or in any other document furnished by it to the Concessioneing Authority including the Bid or to any Government Authority in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (l) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Concessioneing Authority in connection therewith;
- (m) agrees that the execution, delivery and performance by it of this Agreement and all other agreements, contracts, documents and writings relating to this Agreement constitute private and commercial acts and not public or governmental acts; and
- (n) consents generally in respect of the enforcement of any judgement against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings.

20.2 Representations and Warranties of the Concessioneing Authority

The Concessioneing Authority represents and warrants to the Concessionaire that:

- (a) it is duly organised, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;

- (d) this Agreement constitutes the legal, valid and binding obligation of the Concessioning Authority, enforceable against it in accordance with the terms hereof; and
- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement.

20.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.



ARTICLE 21

MISCELLANEOUS PROVISIONS

21.1 Datum

The datum to which all levels shall be referred for the purpose of the Project is the Chart Datum (0.000) which is 0.80 m below mean sea level or such levels as notified by the Concessioneing Authority from time to time.

21.2 Survival of Obligations

Any cause of action which may have occurred in favour of either Party or any right which is vested in either Party under any of the provisions of this Agreement during the Concession Period as the case may be as a result of any act, omission, deed, matter or thing done or omitted to be done by either Party before the expiry of the Concession Period by efflux of time or otherwise in accordance with the provisions of this Agreement shall survive the expiry of the Concession Period / termination of this Agreement.

21.3 Articles to survive Termination

The provisions of Articles 16 to 21 shall, to the fullest extent necessary to give effect thereto, survive the Concession Period/the termination of this Agreement and the obligations of Parties to be performed / discharged following the termination / early determination of this Agreement shall accordingly be performed / discharged by the Parties.

21.4 Joint Responsibility

In the event that any damage is caused partly due to the negligence or default or omission on the part of the Concessioneing Authority and partly due to the negligence or default or omission on the part of the Concessionaire, each Party shall be liable to the other Party only in the proportion to its respective degree of negligence or default or omission, as the case may be.

21.5 Several Obligations

Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency or joint venture among the Parties and Parties shall be liable to perform their respective duties and discharge their respective liabilities or obligations in accordance with the provisions of this Agreement.

21.6 Severability

If for any reason whatsoever any provision or any part(s) of this Agreement is held or shall be declared to be void or illegal or invalid under present or future laws or regulations effective and applicable during the Concession Period, by any competent arbitral tribunal or court, and if such provisions shall be fully separable and this Concession shall be constructed as if such provision or such part(s) of this Agreement never comprised part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such void or illegal or invalid provision or by its severance from this Agreement.



21.7 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term or related or breach of any term of this Agreement shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

The Concessioneing Authority:

CHAIRMAN

VISAKHAPATNAM PORT
VISAKHAPATNAM – 530 035
ANDHRA PRADESH, INDIA

Fax No: +91-891-2565023

Email: info@vizagport.com

The Concessionaire:

The DIRECTOR

West Quay Multiport Pvt. Ltd.

5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai – 400 004

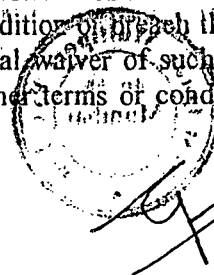
Fax No. 022-2368 3165

Email: ho@abg-lda.com

or such other address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

21.8 Waiver

No waiver of any term or condition or of the breach thereof by any Party shall be valid unless expressed in writing and signed by such Party and communicated by such Party to the other Party in accordance with the provisions of Article 21.7 of this Agreement. A waiver by any Party of any term or condition or breach thereof in a given case shall not be deemed or construed as a general waiver of such term or condition or the breach in the future or waiver of any other terms or conditions or breach of this Agreement.



21.9 Amendments, Modifications or Alterations.

No amendments, modifications or alterations of or any additions to the terms and conditions of this Agreement shall be valid unless the same be in writing and agreed to by the Parties.

21.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Republic of India and courts having territorial jurisdiction over the Project shall have jurisdiction over all matters relating to or arising out of this Agreement.

21.11 Entire Agreement

This Agreement and the Appendices together constitute a complete and exclusive statement of the terms of the agreement between the Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement unless specifically retained in this Agreement and the Appendices, by reference or otherwise, are abrogated and withdrawn.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement on the dates indicated next to their signatures below:

Common Seal of the Concessioneing Authority is affixed pursuant to its resolution 119/2009-10 dated 16.12.2009 of the Board in the presence of Mr. G. V. L. Satya Kumar, Dy. Chairman, VPT. who has signed this Agreement in token thereof.

Signed and Delivered by the Concessionaire by the hand of its authorized representative Mr. Gurpreet Malhi pursuant to Resolution dated 23rd July 2010 of its Board of Directors.

For West Quay Multiport Pvt. Ltd.
Authorised Signatory
Authorised Signatory



Dy. Chairman /उपाध्यक्ष
विशाखपट्टणम पोर्ट ट्रस्ट
Visakhapatnam Port Trust

APPENDIX 1

PROJECT SITE

1.0 SITE INFORMATION

1.1 GENERAL

The Concessionaire should ascertain and satisfy itself / themselves about the details and the data furnished on meteorological, geological, sub-soil and other conditions. If any error or deficiency in the information supplied surfaces at any time during the currency of the Concession Period, no claim on this account will be entertained by the Concessions Authority.

1.2 THE SITE

The Visakhapatnam port is located in the city of Visakhapatnam, Visakhapatnam District, State of Andhra Pradesh on the East Coast of India and lies on Latitude 17°- 41'N and Longitude 83°-18' E. The WQ-6 berth is proposed to be constructed by extending Northern arm in the Inner Harbour of the Concessions Authority in continuation to the existing WQ-5 berth as shown in drawing No. VPT / 01 / 06

1.3 AVAILABILITY OF LAND

The Land for establishment of the identified facilities shall be provided by the Concessions Authority out of Visakhapatnam Port Trust land on prevailing Schedule of Rates as applicable from time to time. It is clarified that the costs of diversion of roads, telephone lines, power, water and any other lines, drains etc. passing through the land shall be borne by the Concessionaire at his own cost.

1.4 METEOROLOGICAL DATA

WIND:

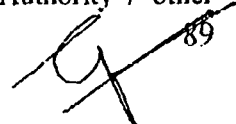
The predominant direction of wind is south – west and North-east for the most of the time and wind speed does not exceed 20 KMPH for 90% of the time. The maximum wind speed recorded is 110 KMPH.

SEA WATER TEMPERATURE & SALINITY:

The sea water temperature at Visakhapatnam Coast varies from a mean of about 25° C in January to 29° C in October. The salinity varies from a monthly mean of about 24.4‰ in November to a monthly mean of 34‰ in April.

1.5 SUB-SOIL CONDITIONS

As per soil investigations carried out in the recent past in the project site, the expected soil strata is soft clay for a depth of about 18 m followed by stiff clay / sand with clay and pebbles for a depth of about 4 m overlying hard strata. A copy of the same pertinent to the Project Site will be made available to the Concessionaire upon request. In the event that the Concessionaire desires to carry out any soil explorations, permission shall be granted by Concessions Authority., the soil exploration shall be arranged by the Concessionaire at his cost without causing any inconvenience to the works / operations of Authority / other


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agencies working in the area. The detailed designs to be undertaken by the Concessionaire shall be based on proper soil exploration conducted at the Site before hand and no claim on this account will be tenable.

1.6 DATUM

The datum to which all levels shall be referred for the purpose of the works is the Chart Datum, which is 0.80 Meters below MSL.

1.7 CLIMATE

The annual mean maximum temperature is 30°C and the annual mean minimum temperature is 24.3°C. The highest temperature is recorded in May and June and the lowest in December and January. The highest temperature recorded was 38°C in May and the lowest temperature recorded was 24.3° in January for the year 2007.

The annual mean value of daily relative humidity recorded varies from 72% to 76% . The highest recorded value is 81% and lowest recorded value is 64%.

1.8 WAVES

The deep sea wave conditions are in agreement with the wind directions in this area. The predominant direction of waves during the period April – September is South – West whereas during the period November – February the predominant direction is North-east. The months of March and October are transition periods with no definite predominant direction for the wave approach. Waves of over 1.5 M in height may be expected out side the outer harbour for approximately 22% of the time and wave periods of over 7 seconds may be expected approximately 14% of the time.

1.9 TIDES

Highest w.r.t. datum

Highest high water recorded (Nov. 2007)	-	2.06 M
Mean high water level spring	-	2.06 M
Mean high water level neap	-	1.50 M
Mean sea level	-	0.80 M
Mean low water level spring	-	-0.16 M
Mean low water level neap	-	+0.50 M
Chart datum (CD)	-	0.00 M
Lowest low water recorded (March 2007)	-	(-)0.39 M

Note: During the 'tsunami' occurred in December 2004 the max. & min. levels of sea water have varied between a max. of +3.0 m to a min. of -1.0 m.

1.10 CURRENTS:

Currents in the Bay of Bengal are seasonal and are mainly due to south-West and North-East monsoons. From February to June offshore currents flow toward the North-East and from August to December towards South-west at velocities ranging from 0.5 to 1.0 Knot in the Outer Harbour.

1.11 VISIBILITY:

Visibility is good throughout the year as fog is in-frequent at sea in all seasons. Reduction in visibility is mostly due to heavy rainfall during the South-West monsoon. The highest monthly average duration recorded fog is 0.1 day in some months from December to May.

1.12 CYCLONES:

The average number of cyclones occurring at Visakhapatnam is 4 to 5 per year. Cyclone Storms and depressions occur with great frequency in August, October and November.

2.0 EXISTING BERTHS:

- 2.1 The schematic details of the existing berths and approaches are shown in Drg No.VH/04/06 enclosed. The Inner Harbour has 18 Nos. of berths and the Outer Harbour 6 Nos. of berths. There are proposals to construct additional berths in the Inner Harbour and Outer Harbour.

3.0 SOIL INVESTIGATION

The concessionaire shall carryout the soil investigations along the length of the Quay / obtaining data as per the provisions contained in relevant Bureau of Indian Standards with soil borings at 50 meters interval so as to adhere to the design requirement.



APPENDIX 2
PORT'S ASSETS

A water front of 255m and an area of about 12.20 acres (approx.) of land at North of VPT's fly over bridge for development as stack yard for storage of cargo and an area of 2.47 acres (approx.) as back up area to the berth is proposed to be provided to the Concessionaire. The land proposed to be provided is shown in the Drg. No.VPT/1/06 and Drg. No.VPT/3/06 enclosed.. The land lease rentals shall be as per Schedule of Rates as applicable from time to time and shall be payable by the Concessionaire to Concessioneing Authority for this land.

NOTE: There may marginal adjustments in the area proposed to be provided to the Concessionaire depending on the actual site conditions.



APPENDIX 3

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the ----- day of ----- (Month) ---- (Year) at ----- AMONGST, THE VISAKHAPATNAM PORT TRUST, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at VISAKHAPATNAM – 530 035, ANDHRA PRADESH, INDIA (hereinafter referred to as “the Concessioneing Authority”) which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

AND

M/s. West Quay Multiport Private Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai – 400 004 hereinafter referred to as “the Concessionaire” (which expression shall unless repugnant to the context or meaning thereof include its successors and assigns),

AND

YYYY (Financial Institution/ Bank) having its Registered Office / Head Office at ----- hereinafter referred to as “the Lender”. OR ZZZZ (Financial Institution / Bank) having its Registered Office / Head Office at ----- acting for and on behalf of the Lenders listed in Schedule A

hereto (hereinafter referred as “the Lender’s Representative”.

WHEREAS,

- a) The Concessioneing Authority for implementing a Project envisaging planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, steel, granite blocks at WQ 6 berth in the northern arm of inner harbour of Visakhapatnam port by private sector participation (hereinafter referred to as “the Project”), has by the Concession Agreement dated July 31st 2010 entered into between the Concessioneing Authority and the Concessionaire (hereinafter referred to as “the Concession Agreement”) has granted to the Concessionaire the Concession to implement the Project in terms of the provisions set out thereunder;
- b) With a view to facilitate financing of the Project by the Concessionaire, the Concessioneing Authority and the Concessionaire have agreed to enter into Substitution Agreement being these presents with the Lender/s/Lenders’ Representative.



NOW, THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereafter respectively assigned to them.

"Agreement" means this agreement and includes any amendment or modification made to this agreement in accordance with the provisions hereof.

"Financial Assistance" means the financial assistance set forth in Schedule A hereto, agreed to be provided by the Lender(s) to the Concessionaire for financing the Project.

"Financial Default" means occurrence of a material breach of the terms and conditions of the Financing Documents or a continuous default in servicing debt thereunder by the Concessionaire for a minimum period of 3 (three) months.

"Lender(s)" means the financial institutions/banks whose name(s) and addresses are set out in Schedule A hereto and shall include the financial institutions / banks who may replace the same by way of a refinance/subrogation, as may be notified by the Lenders' Representative to the Concessionaire, from time to time.

"Residual Concession Period" means the period which shall be the remainder of the Concession Period computed from the date of issuance of Termination Notice in terms of Article 16.1 of the Concession Agreement.

"Selectee" means a Person proposed by the Lender/Lender's Representative pursuant to this Agreement and approved by the Concessioning Authority for substituting the Concessionaire for the residual Concession Period, in accordance with the provisions of this Agreement.

"Suspension Period" means the Termination Period as defined in Article 16 of the Concession Agreement at the end of which all formalities connected with substitution of the Concessionaire by the Selectee including handing over of Project Site / Project Facilities and Services, in accordance with this Agreement are

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completed and the substitution has become effective.

- 1.2 Capitalized terms used in this Agreement but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

ARTICLE 2

ASSIGNMENT

2.1 Assignment of rights and title

The Concessionaire hereby agrees to assign its rights, title and interest in the Concession to, and in favour of, the Lenders pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing by the Lenders under the Financing Documents.

ARTICLE 3

SUBSTITUTION OF THE CONCESSIONAIRE

3.1 Rights of substitution

3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders shall be entitled to substitute the Concessionaire by a Selectee under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.1.2 The Concessions Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Selectee selected by the Lenders in accordance with this Agreement (For the avoidance of doubt, the Lenders shall not be entitled to operate and maintain the Project/Project Facilities and Services).

3.2 Substitution upon occurrence of Financial Default

3.2.1 Upon occurrence of a Financial Default, the Lenders / Lenders' Representative may issue a notice to the Concessionaire (the "Notice of Financial Default") along with particulars thereof, and send a copy to the Concessions Authority for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders / Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Documents, substitute the Concessionaire by a Selectee in accordance with the provisions of this Agreement.

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3.2.3 At any time after the Lenders / Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Concessioneing Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project/Project Facilities and Services, and upon receipt of such notice, the Concessioneing Authority shall suspend the rights of the Concessionaire. Provided, such suspension shall be revoked upon substitution of the Concessionaire by a Selectee, and in the event such substitution is not completed within 180 (one hundred and eighty) Days from the date of such suspension, the Concessioneing Authority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that upon written request from the Lenders / Lenders' Representative and the Concessionaire, the Concessioneing Authority may extend the aforesaid period of 180 (one hundred and eighty) Days by a period not exceeding 90 (ninety) Days.

3.3 Substitution upon occurrence of Concessionaire Default

3.3.1 Upon occurrence of a Concessionaire Default, the Concessioneing Authority shall by a notice inform the Lenders / Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) Days time to the Lenders / Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Selectee.

3.3.2 In the event that the Lenders/Lenders' Representative makes a representation to the Concessioneing Authority within the period of 15 (fifteen) Days specified in Clause 3.3.1, stating that it intends to substitute the Concessionaire by a Selectee, the Lenders/Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Selectee in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) Days from the date of such representation, and the Concessioneing Authority shall either withhold termination and / or suspend the rights of the Concessionaire for the aforesaid period of 180 (one hundred and eighty) Days; provided that upon written request from the Lenders / Lenders' Representative and the Concessionaire, the Concessioneing Authority shall extend the aforesaid period of 180 (one hundred and eighty) Days by a period not exceeding 90 (ninety) Days.

3.4 Procedure for substitution

3.4.1 The Concessioneing Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Concessioneing Authority under Clause 3.3.2, as the case may be, the Lenders/Lenders' Representative may, without prejudice to any of the other rights or remedies of the Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders from potential Selectees for substituting the Concessionaire and taking on the rights and obligations under the Concession Agreement.

3.4.2 To be eligible for substitution in place of the Concessionaire, the Selectee shall be required to fulfil the eligibility criteria that were laid down by the Concessioneing Authority for shortlisting the bidders for award of the Concession; provided that the Lenders / Lenders' Representative may represent to the Concessioneing Authority that all or any of such criteria may be waived in the interest of the Project, and if the Concessioneing Authority determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.

3.4.3 Upon selection of a Selectee, the Lenders / Lenders' Representative shall request the Concessioneing Authority to:

- (a) accede to transfer to the Selectee the rights and obligations of the Concessionaire under the Concession Agreement; and
- (b) novate the Concession Agreement to the Selectee such that the Selectee replaces the Concessionaire and becomes entitled / obligated to all the rights and obligations of the Concessionaire, for the residual Concession Period.

3.4.4 If the Concessioneing Authority has any objection to the transfer of Concession in favour of the Selectee in accordance with this Agreement, it shall within 7 (seven) Days from the date of proposal made by the Lenders / Lenders' Representative, give a reasoned order after hearing the Lenders / Lenders' Representative. If no such objection is raised by the Concessioneing Authority, the Selectee shall be deemed to have been accepted. The Concessioneing Authority thereupon shall novate the Concession Agreement within 7 (seven) Days of its acceptance / deemed acceptance of the Selectee, provided that in the event of such objection by the Concessioneing Authority, the Lenders' Representative may propose another Selectee whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Selectee in place of the Concessionaire.

3.5 Selection to be binding

The decision of the Lenders / Lenders' Representative and the Concessioneing Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Lenders or the Concessioneing Authority taken pursuant to this Agreement including the transfer / novation of the Concession Agreement in favour of the Selectee. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets comprised in the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders / Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Concessioneing Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Concessioneing Authority or the Lenders / Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Lenders / Lenders' Representative.



ARTICLE 4

TRANSACTION DOCUMENTS

4.1 Substitution of Selectee in Transaction Documents

The Concessionaire shall ensure and procure that each Transaction Documents contains provisions that entitle the Selectee to step into such Transaction Documents, in its discretion, in place and substitution of the Concessionaire in the event of such Selectee assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

ARTICLE 5

TERMINATION OF CONCESSION AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders/Lenders' Representative may by a notice in writing require the Concessioneing Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Concessioneing Authority shall terminate the Concession in accordance with the Concession Agreement.

5.2 Termination when no Selectee is selected

In the event that no Selectee acceptable to the Concessioneing Authority is selected and recommended by the Lenders / Lenders' Representative within the period of 180 (one hundred and eighty) Days or any extension thereof as set forth in Clause 3.3.2, the Concessioneing Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

The Concessioneing Authority and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders are entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon termination of the Concession Agreement.

ARTICLE 6

DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

6.1.1 This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

- (a) Termination of the Agreement; or

- (b) no sum remains to be advanced, or is outstanding to the Lenders, under the Financing Documents.

ARTICLE 7

INDEMNITY

7.1 General indemnity

- 7.1.1 The Concessionaire will indemnify, defend and hold the Concessioneing Authority and the Lenders / Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.
- 7.1.2 The Concessioneing Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Concessioneing Authority to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of its lawful functions by the Concessioneing Authority.
- 7.1.3 The Lenders / Lenders' Representative will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders / Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders/Lenders' Representative.

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) Days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same.

The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.



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ARTICLE 8

GENERAL

8.1 General

- (i) The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.
- (ii) Notices under this Agreement shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by registered post acknowledgement due and delivered to the other parties.
- (iii) The expressions "Concessioneing Authority", the "Concessionaire", the "Lender" and the "Lenders' Representative", "Selectee" herein used shall unless there be anything repugnant to the subject or context include the respective successors and assigns.
- (iv) This Agreement shall not be affected by reorganisation of any Lender, the Concessionaire or Concessioneing Authority, "Selectee" and the successor in interest of the Lender or Concessioneing Authority shall have the benefit of this Agreement.
- (v) Failing amicable settlement and / or settlement with the assistance of Expert, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. The arbitration shall be by a panel of three Arbitrators, one each to be appointed by the Concessioneing Authority and the Lenders/Lender's Representative and the third to be appointed by the two arbitrators. If any Party entitled to do so, fails to appoint a second Arbitrator within 30 (thirty) Days of from the receipt of the request for such appointment, then the single Arbitrator appointed in accordance with this provision shall adjudicate the disputes as Sole Arbitrator.
- (vi) This Agreement and rights and obligations of the Parties hereunder shall remain in full force and effect pending the Award in any arbitration proceeding hereunder. The courts having territorial jurisdiction over the Project alone shall have jurisdiction over all matters arising out of or relating to the arbitration agreement contained herein or proceedings arising out of or relating to the arbitration proceedings thereunder.
- (vii) The consultation, recommendation or approval of the Lenders' Representative under this Agreement shall always be deemed as consultation, recommendation or approval of every concerned Lender and each such Lender shall be bound by the same.

- (viii) This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- (ix) The Concessionaire agrees and acknowledges that it shall not be necessary for the Lender(s) or the Lenders' Representative to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- (x) No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorized representatives of all the Parties hereto.
- (xi) All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid, irrespective of the Lenders making such payment for the time being, shall be borne by and be to the account of the Concessionaire.
- (xii) The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. The terms of this Agreement shall prevail in the event of any inconsistency with the Concession Agreement.

SCHEDULE A
PARTICULARS OF FINANCIAL ASSISTANCE

Name and Address of the Lender	Nature and Amount of Financing Assistance

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET THEIR HANDS
HEREUNTO ON THE DAY, MONTH AND YEAR HEREINABOVE MENTIONED.

SIGNED AND DELIVERED ON BEHALF OF

West Quay Multiport Private Limited BY :

Name : Title :

Authorized Signatories : SIGNED AND DELIVERED ON BEHALF OF GOVERNEMENT
OF INDIA

BY :

Name : Title :

SIGNED AND DELIVERED ON BEHALF OF

----- ON BEHALF OF THE LENDERS SETFORTH IN SCHEDULE I

BY : _____

Name :

APPENDIX 4

PROJECT REQUIREMENTS

The following facilities and services for handling dry bulk cargo such as LAM Coke, C.P. Coke, Steel and Granite Blocks shall be provided by the Concessionaire in the Project Assets provided by the Concessioning Authority.

PROJECT FACILITIES AND SERVICES:

Berth:

- Plan, design and construct 255m length of berth (including dismantling the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of 14m draft vessels.
- Carry out dredging in front of the berth in phases i.e. (-) 12.10m initially, (-) 13.50 m and (-) 16.10 m CD in phases in future from the present ground level / soundings.
- Develop back up area, water supply, area illumination, fire fighting and road facilities required including development of the land at the berth as well at the stack yard.

Equipment:

- i) Two Nos. of 60 Ton Harbour Mobile Cranes
- ii) 2 Nos. of 500 HP front end loaders
- iii) 1 No. of 10 T. fork lift truck.
- iv) Electrical works and lighting.
- Develop utilities and services such as communication, office accommodation, etc required for operation of the berth.
- Compliance with environmental laws during implementation i.e. construction, operation and maintenance.

Services means:

- (a) Providing berthing facilities to the vessels.
- (b) Providing handling facilities for discharge, storage, delivery and receipt, storage, shipment of cargoes duly achieving the standards of performance, safety, etc., as set out in the Concession Agreement and rendering all other services incidental thereon.
- (c) Taking custody of cargo both in terms of Customs Act, 1962 and M.P.T. Act, 1963.
- (d) Providing any other services to ships except pilotage, towage and mooring.

SECURITY CLAUSE:

The Concessionaire shall at all times during the Concession Period obtain clearance from Concessioning Authority before employment / deployment of personnel of foreign nationality and sourcing of equipments from foreign countries.

Annexure to Appendix-4

CONSTRUCTION STANDARDS, OPERATIONS AND MAINTENANCE STANDARDS AND SAFETY STANDARDS

Planning, design, engineering, installation, operation and maintenance of all developmental works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant International Standards shall be complied with. List of standards for construction, operation & maintenance are annexed to this Article. In the absence of both, the Concessionaire should follow Good Industry Practice. Safety precautions, as per statutory requirements, shall also be complied with. The Concessionaire shall ensure compliance to Quality, Environmental, Occupational Health and Safety and ISPS Codes.

A. General

The Concessionaire shall execute the project by completing civil works as per the Project Requirements and provide appropriate equipment for cargo handling and other support facilities for proper and efficient functioning.

The Concessionaire shall carry out Construction Works, etc duly complying with the provisions of all relevant latest Indian Standards and in case certain item of works not covered by the Indian Standards, provisions of ISO / IEC / OISD standards, etc shall be complied.

The construction of civil works, facilities, erection & commissioning of lifting appliances, equipment and machinery and their layout shall ensure that during cargo operations these facilities meet the required provisions of the Dock Workers Safety Health & Welfare Act, 1986 and the relevant Regulations 1990.

The Concessionaire shall meet the requirements of Management Quality System (IS/ISO - 9001: 2000) and shall also obtain accreditation for operations at the terminal. In addition, the Concessionaire shall comply with all relevant statutory regulations, codes, practices and guidelines.

It is not intended to specify herein all the relevant standards required to complete the Project. Such of those standards considered more pertinent are listed in this Annexure.



B. Civil Construction Work

B. 1. Dry Bulk, Break Bulk & Container Terminals

The civil construction work may comprise variety of works such as dredging, reclamation, construction of breakwaters, berths, development of back-up area for storage and handling of dry bulk cargo, approach roads, operational buildings / offices, maintenance workshop, drainage, water supply, environmental protection works and other amenities. The Concessionaire is required to undertake all tests required as per IS / ISO / IEC standards to ensure that the construction work carried out by him meets not only the functional requirements of the project but also conforms to the required quality as per the standards. In addition, the Concessionaire shall also comply with the provisions of specifications published by the Indian Road Congress, as may be pertinent to the Project. In respect of implementing the Project, the Concessionaire shall refer to and as relevant comply with the design and construction standards specified in the following paragraphs.

Indian Standards for Construction of Ports and Harbours

IS 4651 – Part – 1 – 1974	Code of practice for planning and design of ports and harbours: Part 1 Site investigation
IS 4651–Part 2–1989	Code of practice for planning and design of ports and harbours Part 2 Earth pressure
IS 4651-Part III-1974	Code of practice for planning and design of ports and harbours: Part III: Loading
IS 4651- Part 4 -1989	Code of practice for planning and design of ports and harbours: Part 4: General Design consideration.
IS 4651-Part 5-1980:	Code of practice for planning and design of ports and harbours Part:5 Layout and functional requirements
IS7314: 1974	Glossary of terms relating to port and harbour engineering
IS 9527: Part 1: 1981	Code of practice for design and construction of port and harbour structures: Part 1 Concrete monoliths
IS 9527: Part 3:: 1983	Code of practice for design and construction of port and harbour structure: Part 3 Sheet pile walls
IS 9527: Part 4: 1980	Code of practice for design and construction of port and harbour structure: Part 4 Cellular Sheet pile structures
IS 9527: Part 6: 1989	Code of practice for design and construction of port and harbour structures: Part 6 Block work
IS 10020: Part 4: 1981	Recommendations for design and construction of port and harbour components Part 4 Slipways.
IS 9556: 1980	Code of Practice for design and construction of diaphragm walls

Indian Standards for Foundation Work

- IS 2911: Part 1: Sec 1: 1979 Code of practice for design and construction of pile foundations Part 1 Concrete piles, Section 1, Driven cast in-situ concrete piles
- IS 2911: Part 1: Sec 2: 1979 Code of practice for design and construction of pile foundations: Part 1 Concrete piles, Section 2 Bored cast in-situ piles
- IS 2911: Part 1: Sec 3: 1979 Code of practice for design and construction of pile foundations: Part 1 Concrete piles, Section 3 Driven pre-cast concrete piles
- IS 2911: Part 1: Sec 4: 1984 Code of practice for design and construction of pile foundations. Part 1 Concrete piles, Section 4 Bored pre-cast concrete piles
- IS 2911: Part 2: 1980 Code of practice for design and construction of pile foundations: Part 2 Timber piles
- IS 2911: Part 3: 1980 Code of practice for design and construction of pile foundations: Part 3 Under reamed piles.
- IS 2911: Part 4: 1985 Code of practice for design and construction of pile foundations: Part 4 Load test on piles
- IS 2950: Part 1: 1981 Code of practice for design and construction of raft foundations – Part I: Design
- IS 2974: Part 1: 1982 Code of practice for design and construction of Machine Foundations- Part 1: Foundation for Reciprocating Type Machines.
- IS 2974: Part 2: 1980 Code of practice for design and construction of machine foundations. Para 2 Foundations for impact type machine (hammer foundations)
- IS 2974: Para 3: 1992 Code of practice for design and construction of machine foundations for rotary type machines (medium and high frequency)
- IS 2974:: 1979: Code of practice for design and construction of machine foundations: Part 4 Foundations for rotary type machines of low frequency.
- IS 2974: Part 5: 1987 Code of practice for design and construction of machine foundations Part 5 Foundations for impact machines other than hammers (forging and stamping press, pig breaker drop crusher and jolter)
- IS 1080: 1985 Code of Practice for design and construction of shallow foundations on soils (other than raft, ring and shell).
- IS 13094: 1992 Guidelines for Selection of ground improvement techniques for foundation in weak soils.

Indian Standards for Structural Design

IS 875(Part I to V): 1987	Code of Practice for design loads (other than earth quake) for buildings – dead loads, imposed loads, wind loads, snow loads, special loads and load combinations.
IS 456: 2000	Code of Practice for plain and reinforced concrete.
IS: 800: 1984	Code of practice for general construction in steel.
IS: 801: 1975	Code of practice for use of cold formed light gauge steel structural members in general building construction.
IS: 803: 1976	Code of practice for Design fabrication and Erection of vertical mild steel cylindrical welded oil storage tanks.
IS 1893: Part 1: 2002	Criteria for Earthquake Resistant Design of Structures Part I – General Provision and Buildings
IS 1893: Part 4: 2005	Criteria for earth quake resistant design of structures – Part 4- Industrial Structures including Stack-like Structures.
IS 4326: 1993	Code of Practice for Earth Quake Resistant design and construction of buildings.

C. Cargo Handling Equipment

Structures and Mechanism

IS 807: 2006	Design, erection and testing (Structural Portion) of Cranes and Hoists – Code of Practice.
BS 5400 – Part 10	Steel concrete and composite bridges - Code of practice for fatigue
IS 4137 - 1985	Specification for heavy duty electric overhead traveling and special cranes for use in steel works

Material

IS 800: 1984	Code of Practice for general construction in steel
IS 2062: 2006	Hot rolled low medium and high tensile Structural Steel
IS 2644: 1994	High tensile steel castings
IS 2266: 2002	Steel Wire Ropes for General Engineering Purposes-specification
IS 3177: 1999	Code of Practice for Electric Overhead Traveling Cranes and Gantry Cranes other than Steel Work Cranes

Electricals

IEC standards

IEE – regulations for the electrical equipment of buildings

BS 4999 / FEM 3rd edition Booklet 4 - Motors

BS 171, BS 3941, BS 3938 - Transformers

BS 99 - Fuses

Welding

IS 7307: Part 1: 1974 Approval test for welding procedures Part 1 Fusion welding of steel.

IS 7310: Part 1: 1974 Approval test for Welders working to approved welding procedures – Part 1: Fusion welding of Steel.

Painting

BS 5493 Code of practice for protective coating of iron and steel structures against corrosion

Swedish Standard Sa 2,5 or SIS ST3, SIS 055900 surface preparation

General

IS 13367: Part 1: 1992 Safe use of Cranes- Code of Practice Part 1 General

Classification of Crane

Structures

Class of utilization: U8 (4 Million loading cycles)

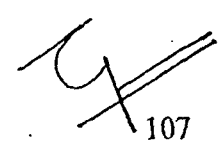
State of loading: Q3

Group classification: A8

Impact factor: 1.4

Duty factor: 0.9

Nominal load spectrum: 0.8 of rated capacity factor



Mechanism

Class of Utilization State of Loading Group Classification

Hoist	T8	L3	M8
Traverse	T8	L3	M8
Travel	T5	L2	M5
Boom hoist	T3	L3	M4

The wharf cranes shall be designed for Stability as per BS 2573 Part I & II.

C-3 Mobile Equipment

IS 4357: 2004	Methods for Stability Testing of Fork Lift Trucks
IS 4573: 1982	Specification for Power Driven Mobile Cranes
IS 13473: Part 2:1992	Cranes - Vocabulary Part 2 Mobile cranes ISO 4306 1985
IS 13558: Part 2:1995	Cranes - Controls - Layout and Characteristics - Part ISO 7752 -2- 1986 Mobile Cranes
IS 13834 : Part 2: 1993	Cranes - Classification: Part 2 Mobile cranes ISO 4301-2 : 1985
IS 13870: Part 2: 1993	Cranes and Lifting Appliances - Selection of Wire ISO 4308 : 1988 Ropes - Part 2: Mobile Cranes - Coefficient of utilization
IS 14469: 1997	Mobile Cranes - Determination of Stability ISO 4305 - 1991
IS 14474: Part 1: 1997	Mobile Cranes - Experimental Determination of Crane ISO 11662-1:1995 Performance - Part1 : Tipping Loads and Radii
IS 3173: 1965	Specification for High pressure connections for fuel injection equipment for diesel engines

C-4 Conveyors for Bulk Handling Conveyors

IS 4776:Part I: 1977	Specification for Troughed Belt Conveyors - Part I Troughed Belt Conveyors for Surface Installation
IS 8597 - 1977	Flat Belt Conveyors
IS 11592 - 2000	Code of practice for selection and design of Belt Conveyors
IS 7465 - 1974	Portable and Mobile troughed Belt Conveyor

IS 7155:Part 1: 1986	Code of recommended practice for conveyor safety: Part 1 General Information
IS 7155:Part 2: 1986	Code of recommended practice for conveyor safety: Part 2 General Safety requirement
IS 7155:Part 3: 1986	Code of recommended practice for conveyor safety: Part 3 Belt Conveyors and feeders
IS 7155:Part 4: 1990	Code of recommended practice for conveyor safety: Part 4 Vibrating Conveyor/feeder
IS 7155:Part 5: 1990	Code of recommended practice for conveyor safety: Part 5 Apron Conveyor / Apron Feeder
IS 7155:Part 6: 1990	Code of recommended practice for conveyor safety: Part 6 Selection, Training and Supervision of Operators
IS 7155:Part 7: 1990	Code of recommended practice for conveyor safety: Part 7 Inspection and Maintenance
IS 7155:Part 8: 1994	Code of recommended practice for conveyor safety: Part 8 Flight Conveyors (scraper conveyors)

Idlers and Pulleys

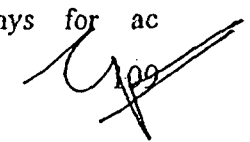
IS 8598 – 1987	Idlers and Idlers Sets
IS 8531 – 1986	Pulleys for Conveyors
IS 11507 – 1985	Synchronous Drive Pulleys

Conveyor Belts

IS 1891(Part I & II)-1978	Rubber Conveyor Belting
IS 1891 – 1988	Amendment to above code
IS 22131 Part I 1980	Steel Cord Conveyor Belting

D. Electrical

IS 325: 1996	Three-phase induction motors
IS 900: 1992	Code of practice for installation and maintenance of induction motors
IS 1231: 1974	Dimensions of Three-phase Foot-mounted Induction Motors
IS 2223: 1983	Dimensions of flange mounted ac induction motors
IS 3682: 1966	Flame-proof ac motors for use in mines
IS 3842: Part 2 : 1966	Application guide for electrical relays for ac

	systems: -Part 2 Over current relays for generators and motors
IS 4029: 1967	Guide for testing three-phase induction motors
IS 8151: 1976	Single-speed three-phase induction motors for driving lifts
IS 8789: 1996	Values of performance characteristics for three-phase induction motors
IS 9628: 1980	Three-phase induction motors with type of protection 'n'
IS 10242: Part 3 : Sec 1:1983	Electrical installations in ships: Part 3 Equipment, Sec1 Generators and motors
IS 12615: 2004	Energy Efficient Induction Motors - Three Phase Squirrel Cage
IS 13529: 1992	Guide on Effects of Unbalanced Voltages on the Performance of Three-Phase Cage Induction Motors
IS 13555: 1993	Guide for Selection and Application of 3-Phase A. C. Induction Motors for Different Types of Driven Equipment
IS 14122: 1994	Built in thermal protection for electric motors rated up to 660 V ac
IS 14377: 1996	Specification for Three-phase Induction Motors for Fans Used in Air-conditioning and Ventilation
IS 15429: 2004	Storage, Installation and Maintenance of DC Motors - Code of Practice
IS 3043: 1987	Code of practice for earthing
IS 3151: 1982	Earthing transformers
IS 5553(Part 6) 1991	Reactor Parts – Earthing of Transformers
IS 9921: Part 1: 1981	Specification for Alternating Current Disconnections (Isolators) and Earthing Switches for Voltages above 1 000 V - Part I: General and Definitions
IS 9921: Part 2: 1982	Alternating current disconnections (isolators) and earthing switches for voltages above 1000 V: Part 2 Rating
IS 9921: Part III : 1982	Specification for Alternating Current Disconnections (Isolators) and Earthing Switches for Voltages above 1000 V - Part III: Design and Construction
IS 9921: Part 4: 1985	Specification for Alternating Current Disconnections (isolators) and Earthing Switches for Voltages Above 1000 V - Part 4: Type Tests and Routine Tests
IS 9921: Part 5: 1985	Specification for Alternating Current Disconnections (Isolators) and Earthing Switches for Voltages Above 1000 v - Part 5: Information to be given with Tenders, Enquiries and Orders
IS 12776: 2002	Galvanized Strand for Earthing – Specification

IS 14981: 2001	Live Working - Earthing or Earthing and Short-Circuiting Equipment Using Lances as a Short-Circuiting Device-Lance Earthing
IS 13947: Part 2 : 1993	Specification for Low-voltage Switchgear and Control gear - Part 2 : Circuit Breakers
IS 14658: 1999	High Voltage Alternating Current Circuit Breakers - Guide for Short-circuit and Switching Test Procedures for Metal-enclosed and Dead Tank Circuit Breakers
IS 8828: 1996	Electrical Accessories - Circuit Breakers for Over Current Protection for Household and Similar Installations
IS 2309: 1989	Code of Practice for Protection of allied structure against lightning
IS 732: 1989	Code of Practice for Electric wiring installation
IS 694: 1990	PVC insulated Cables for working voltages upto and including 1100V
IS 1554 (Part 1):1988	PVC insulated (Heavy Duty) electric cables : Part 1 for working voltages upto and including 1100 V
IS 1554 (Part 2) : 1988	PVC insulated (Heavy Duty) electric cables : Part 2 for working volages from 3.3 kV upto and including 11 kV
IS 7098 (Part 1) : 1988	Cross linked Polyethelene insulated PVC sheathed cables Part 1 for working voltages upto and including 1100 V
IS 7098 (Part 2) : 1985	Cross linked Polyethelene insulated PVC sheathed cables Part 2 for working voltages from 3.3 kV upto and including 33 kV
IS 7098 (Part 3) : 1988	Cross linked Polyethelene insulated PVC sheathed cables Part 3 for working voltages from 66 kV upto and including 220 kV
IS 10118 (Part 1) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears : Part 1 General
IS 10118 (Part 2) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears: Part 2 Selection
IS 10118 (Part 3) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears: Part 3 Installation
IS 10118 (Part 4) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears: Part 4

Maintenance

For all other equipment not covered in the above standards, equivalent or higher standards in BS, JIS, FEM, DIN, ISO, IEC, are acceptable.

E. Operations & Maintenance Standards: Repairs, Maintenance and Replacement

The Concessionaire at its own cost promptly and diligently maintain, replace or restore any of the project facilities or part thereof which may be lost, damaged, destroyed or worn out.

The Concessionaire shall abide by the operations and maintenance plan as outlined in the Manufacturer's Manual, which need to be supplied to the concessioning authority by the Concessionaire.

While carrying out the repairing, maintaining and replacing the Project Facilities, the Concessionaire acknowledges and accepts that it is holding and maintaining the Concession or Port Assets, Project Facilities in trust for eventual transfer to the Concessioning Authority on termination of the Agreement and therefore, will not do any act as a result of which the value of Port Assets and Project Facilities and Services is diminished.

The Concessionaire shall, at all times during the Concession Period, at its own risk, cost, charges and expenses, performance and pay for maintenance repairs, renewals and replacement of various type of assets and equipment in the concessionaire premises and / or the project or any parts thereof, whether due to use and operations or due to deterioration of materials and /or parts, so that on the expiry or termination of Concession, the same shall except normal wear and tear be in good working condition as it were at the time of commencement of the Concession.

While carrying out the repair, maintenance and replacement of the Project Facilities, the Concessionaire shall carry out the work in accordance with the manufacturer's recommendations and the relevant latest Indian Standards or in its absence ISO / OISD Standards. In the event that the Concessionaire, by necessity or otherwise need to follow any other country standard and it shall be equal or superior to the standard specified above.

The repairs and maintenance shall generally conform to the following specifications.

E.1 Maintenance Standards

ISO 4308-1-2003	Maintenance of lifting appliances
ISO 4309-2004	Cranes wire rope care, maintenance and discard
IS 13367: Part 1 : 1992	Safe use of cranes – Code of Practice Part 1 General
BS 7121-2-2003	Code of Practice for safe use of cranes, inspection, testing & examination

BS 7121-4-1997

Code of Practice for safe use of cranes
(Lorry Loaders)

BS 7121-5-2006

Code of Practice for safe use of cranes
(Tower Cranes)

E.2 Painting

IS 144 : 1950

Ready mixed paint, brushing, petrol resisting, air-drying, for interior painting of tanks and containers, red oxide (colour unspecified)

IS 145 : 1950

Ready mixed paint, slushing, petrol resisting, air-drying for interior painting of tanks and containers, red oxide (colour unspecified)

IS 146 : 1950

Specification for ready mixed paint, brushing, petrol resisting, stoving, for interior painting of tanks and containers, red oxide (colour unspecified)

IS 147 : 1950

Specification for ready mixed paint, slushing, petrol resisting, stoving, for interior painting of tanks and containers, red oxide (colour unspecified)

IS 164 : 1981

Specification for Ready mixed paint for road marking (first revision)

IS 1419 : 1989

Antifouling paint, brushing for ship's bottom and hulls-Specification (second revision)

IS 6714 : 1989

Ready mixed paint, finishing, non-slip, deck - Specification (first revision)

IS 6948 : 1973

Specification for Ready mixed paint, undercoat, synthetic for ships

IS 6951 : 1973

Specification for Ready mixed paint, finishing, exterior for ships

IS 1477 : Part I : 1971

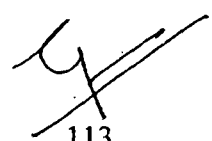
Code of Practice for Painting of Ferrous Metals in Buildings - Part I : Pretreatment

IS 1477 : Part 2 : 1971

Code of practice for painting of ferrous metals in buildings: Part2 Painting

IS 9954 : 1981

Pictorial Surface Preparation Standards for Painting of Steel Surfaces



F. Safety Standards

The Concessionaire shall ensure compliance with the safety standards set out under Applicable Law / international conventions, as relevant, from time to time including those required under the following :

1. Dock Workers (Safety, Health and Welfare) Act, 1986 & Regulations framed thereunder of 1990.
2. The Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.
3. The Petroleum Act, 1934 along with the Petroleum Rules, 2002.
4. OISD – Guidelines – 156 (Oil Industry Safety Directorate): Fire Protection Facilities for Port Oil Terminals.
5. The Explosives Act, 1884 alongwith The Explosive Substance Act, 1983 & The Explosive Rules, 1983
6. Guidelines by Fire Advisor, CCE & DG FASLI, Government of India
7. National Fire Codes (National Fire Protection Association – USA)
8. Drill Manual for the Fire Services of India.
9. International Safety Guide for Oil Tankers & Terminals.
10. ISPS (International Ship & Port Facility Security) Code (2003 Edition)
11. MARPOL CONVENTION.
12. International Maritime Dangerous Goods Code.
13. Andhra Pradesh Fire Services Act 1999 (Andhra Pradesh Fire Services Act 1999 Services (Amendment) Act 2006.
14. National Building Code of India.



SAFETY REQUIREMENTS

1 Guiding Principles

1.1 Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents, irrespective of the person(s) at fault.

1.2 Users include motorised and non-motorised vessels and vehicles as well as pedestrians involved in, or associated with accidents.

1.3 Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same, and implementation of appropriate remedial measures.

1.4 Safety Requirements include measures associated with traffic management and regulation such as signs, pavement marking, traffic control devices, Port Terminal furniture, design elements, enforcement and emergency response.

2 Obligations of the Concessionaire

The Concessionaire shall abide by the following insofar as they relate to safety of the Users:

- (a) Applicable Laws and Applicable Permits;
- (b) Manual for Safety in Port Design and Operation, issued by DoS/Trust;
- (c) Provisions of this Agreement; and
- (d) Good Industry Practice.

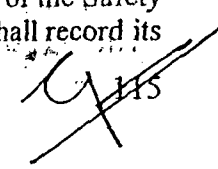
3 Appointment of Safety Consultant

For carrying out safety audit of the Project, the Concessioneing Authority shall appoint from time to time, one or more qualified firms or organisations as its consultants (the "Safety Consultant"). The Safety Consultant shall employ a team comprising, without limitation, one Port safety expert and one navigation expert to undertake safety audit.

4 Safety measures during Construction period

4.1 Not later than 90 (ninety) days from the date of this Agreement, the Concessioneing Authority shall appoint a Safety Consultant for carrying out safety audit. The Safety Consultant shall collect data on all accidents in the preceding two years by obtaining copies of the relevant information from the Concessioneing Authority. The information shall be analysed for the type of victims killed or injured, impacting vessels or vehicles, location of accidents and other relevant factors.

4.2 The Concessionaire shall provide to the Safety Consultant, in four copies, the relevant drawings containing the design details that have a bearing on safety of Users (the "Safety Drawings"). Such design details shall include horizontal and vertical alignments; sightlines; Layout of the Project; provision for parked vessels and vehicles, slow moving vehicles (tractors, carts) and pedestrians; and other incidental or consequential information. The Safety Consultant shall review the design details and forward three copies of the Safety Drawings with its recommendations, if any, to the Independent Engineer who shall record its



comments, if any, and forward one copy each to the Concessioneing Authority and the Concessionaire.

4.3 The accident data and the design details shall be compiled, analysed and used by the Safety Consultant for evolving a package of recommendations consisting of safety related measures for the Project. The safety audit shall be completed in a period of three months and a report thereof (the "Safety Report") shall be submitted to the Concessioneing Authority, in five copies. One copy each of the Safety Report shall be forwarded by the Concessioneing Authority to the Concessionaire and the Independent Engineer forthwith.

4.4 The Concessionaire shall endeavor to incorporate the recommendations of the Safety Report in the design of the Project, as may reasonably be required in accordance with Applicable Laws, Applicable Permits, Manuals and Guidelines. Specifications and Standards, and Good Industry Practice. If the Concessionaire does not agree with any or all of such recommendations, it shall state the reasons thereof and convey them to the Concessioneing Authority forthwith. In the event that any or all of the works and services recommended in Safety Report fall beyond the scope of Schedule, the Concessionaire shall make a report thereon and seek the instructions of the Concessioneing Authority.

4.5 Without prejudice to the provisions of Paragraph 4.4, the Concessionaire and the Independent Engineer shall, within 15 (fifteen) days of receiving the Safety Report, send their respective comments thereon to the Concessioneing Authority, and not later than 15 (fifteen) days of receiving such comments, the Concessioneing Authority shall review the same along with the Safety Report and by notice direct the Concessionaire to carry out any or all of the recommendations contained therein with such modifications as the Concessioneing Authority may specify; provided that any works or services required to be undertaken hereunder shall be governed by the provisions thereon.

4.6 The Safety consultant, 4 (four) months prior to the expected Project completion date, shall study the Safety Report and inspect the Project to assess the adequacy of safety measures. The Safety Consultant shall complete the safety audit within a period of 4 (four) months and submit a Safety Report recommending a package of additional safety measures, if any, that are considered essential for reducing accident hazards on the Project. Such recommendations shall be processed, mutates mutandis, and acted upon in the manner set forth in Paragraphs 4.3, 4.4 and 4.5 of this Schedule.

4.7 The Concessionaire shall make adequate arrangements during the Construction Period for the safety of workers and Users in accordance with Good Industry Practice for safety in construction zones, and notify the Trust and the Independent Engineer about such arrangements.

5 Safety measures during Operation Period

5.1 The Concessionaire shall develop, implement and administer a surveillance and safety programme for Users and workers, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement.

5.2 The Concessionaire shall establish a Port Safety Management Unit (the "PSMU") to be functional on and after date of commercial operations, and designate one of its officers to be in-charge of the PSMU). Such officer shall have specialist knowledge and training in Port safety by having attended a course conducted by a reputed organization on the subject.

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5.3 The Concessionaire shall keep a copy of every FIR recorded by the Police with respect to any accident occurring on the Project. In addition, the Concessionaire shall also collect data for all cases of accidents not recorded by the Police but where a vessel or vehicle rolled over or had to be towed away. The Concessionaire shall also record the exact location of each accident on a map of the Project. The aforesaid data shall be submitted to the Concessioning Authority at the conclusion of every quarter and to the Safety Consultant as and when appointed.

5.4 The Concessionaire shall submit to the Concessioning Authority before the 31st (thirty first) May of each year, an annual report (in ten copies) containing, without limitation, a detailed listing and analysis of all accidents of the preceding Accounting Year and the measures taken by the Concessionaire pursuant to the provisions of Paragraph 5.1 of this Schedule for averting or minimizing such accidents in future.

5.5 Once in every Accounting Year, a safety audit shall be carried out by the Safety Consultant to be appointed by the Concessioning Authority. It shall review and analyse the annual report and accident data of the preceding year, and undertake an inspection of the Project. The Safety Consultant shall complete the safety audit within a period of 1 (one) months and submit a Safety Report recommending specific improvements, if any, required to be made to the Project. Such recommendations shall be processed, mutates mutandis, and acted upon in the manner set forth in Paragraphs 4.3, 4.4 and 4.5 of this Schedule.

6 Costs and expenses

Costs and expenses incurred in connection with the Safety Requirements set forth herein, including the provisions of Paragraph 2 of this Schedule, shall be met in accordance with provisions thereon, and in particular, the remuneration of the Safety Consultant, safety audit, and costs incidental thereto, shall be shared equally between the Concessioning Authority and Concessionaire.

2. RECOMMENDED INSPECTION PERIOD FOR THE PROJECT:

The periodicity for the routine inspection of the principle items of the Project is as follows:



TYPE OF STRUCTURE OR EQUIPMENT	PERIOD MONTHS	FORM OF INSPECTION
Marine Fixtures viz. Bollards, Fenders, mooring rings, ladders, mooring chains etc	12	Visual
Generating stations and sub-stations	12	Visual & physical
Quay Walls	12	Visual-diver as necessary
Navigation Masts	12	Physical
Warehouses, sheds etc	12	Visual
Workshops and machinery	12	Visual & physical
Roads and paving	6	Visual
Railways Track	1	Visual & physical


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APPENDIX 5
PROJECT SCHEDULE

Milestone date	Activity / level of completion of Project
180 Days from Date of Award of Concession	25% of Construction Works should have been completed
365 Days from Date of Award of Concession	50% of Construction Works should have been completed
730 Days from Date of Award of Concession	100% of Construction Works should have been completed

The detailed CPM chart shall be furnished by the concessionaire



APPENDIX 6

DESIGNS AND DRAWINGS

The facility shall be designed for an annual throughput of not less than 3.0 million tonnes. The facility shall consist of Berths, mechanical equipment consisting of harbour mobile cranes, front end loaders, fork lift trucks for loading / unloading, transportation to the stack yard for bulk dry cargos such as C.P.Coke, LAM Coke, Steel and Granite blocks.

a. Mechanical and Electrical equipment:

All the mechanical equipment and electrical equipment shall be designed as per the relevant IS code specified in Appendix-4 / manufacturers manual. The designs and the manufacturers drawings for the equipment shall be submitted by the Concessionaire for approval of the Independent Engineer.

b. Civil / Structural System

The work methodology adopted, the materials used and their sources should conform to standard engineering practices.

Minimum grade of concrete and grade of cement shall satisfy the requirement as stated in IS 456 (latest). Concrete in sea water or directly along the sea coast shall be at least of grade M30 as per IS 456 (latest).

The buildings shall be R.C.C. framed structure with brick wall panels. The ground slab shall be R.C.C. with plinth beams.

Steel structure shall be designed as per IS-800. Deflection limits of the structure shall be as per -IS 11592 (code of practice for selection and design of belt conveyor).

The storage yard shall have a peripheral drainage channel to conduct surface water run-off to the drains out side.

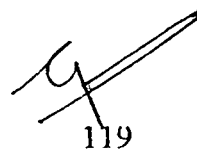
The roads and parking areas shall be designed in accordance with the provision of the latest edition of the relevant I.R.C. codes of practice. The drains shall be of trapezoidal / rectangular section. R.C.C. pipe culverts / box culverts shall carry drainage under roads. Fence and gate shall be provided around the licensed area.

Fire protection system

Necessary Fire Fighting arrangements shall be made by the Concessionaire as required at the berth as well as the stack yard.

DESIGN

The berth design shall be based on the detailed survey and investigation data collected by the Concessionaire. The drawings prepared on the basis of these designs along with the drawings required shall form part of the Concession Agreement.


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All the designs and drawings shall be submitted to the Independent Engineer for review and comments. The work shall be carried out in accordance with these drawings and such other additional drawings prepared or modified as per comments of the Independent Engineer.

Berth design:

The Concessionaire unless otherwise specified may adopt any type of structure for the berth construction.

Design Criteria:

The loading standards for WQ-6 berth will have to conform to the Bureau of Indian Standards in the absence of which other relevant standards may be followed. The following data is to be used in designing the berthing structure.

A) Vertical live load :

- i) Electrical wharf crane with 10.00 Mtrs. gauge with 5% impact factor. (Detailed sketches showing loading of the crane wheels are enclosed) (Annexure-A), the design should also cater for an increase in the loading up to 50% over those given in the sketches.
- ii) B.G. Railway main line loading with impact factor anywhere on wharf (As per Railway Standard).
- iii) Loaded crawler crane (contact area of each track about 0.90 m X 4.6 m) dead weight of the crane being 99 T. and lifting capacity 100 tonnes at lifting radius 4.50m. I.R.C. 70 R tracked or wheeled vehicles loading (IRC 6)
- iv) Uniformly distributed load of 5 tonnes per Sq. Mtrs. on the wharf and on fill behind (IS 4651 Pt.III).
- v) The deck elements shall also be designed for localized concentrated loads. For this purpose a concentrated load of 20 tons with line contact of 1.00 M. is to be considered on a width of 0.20 M.

B) LATERAL LOAD :

- i) **Earth pressures :**
Due to soil in contact with the structures including the effect of surcharge loading of 5 t./sq.m. behind the berth.
For computation of earth pressure, the soil parameters as per the design soil profile given earlier shall only be followed.
- ii) **Berthing impact.**
A horizontal reaction forces of 240 tonnes on any fender unit.
For locations other than at fenders units, the fascia wall and the structure behind shall be designed to withstand a horizontal impact force of 30 tonnes as a point load.
- iii) **Bollard pull :**
90 tonnes on each of the bollards to act simultaneously on all the bollards of every unit of berth from joint to joint.
- iv) Braking forces of 1/40th vertical live load.
- v) Seismic and wind force as per relevant IS code.
- vi) The effect of temperature on shrinkage forces.
- vii) Design dredged depth : (-) 16.10 Mtrs.

viii) Permissible Stresses, partial safety factors for loads.

1. SUB-STRUCTURE

- a) Limit state method of design is to be adopted and partial safety factors on materials and loads are as follows :
 - i) Partial safety factors for materials strength of concrete : 1.50
 - ii) Allowable stress in steel :
 - Under factored load condition – 250 N/mm^2
 - Under working load condition – 165 N/mm^2
 - iii) Load factors : DL LL and Earth pressure (E.P) - 1.50
- b) No increase in the permissible stress is allowed under the load combination of 1.5 (DL + LL + EP)
- c) Surface crack width is limited to 0.004 times the clear cover to the main reinforcement.
- d) M30 grade of concrete and FE 415 grade of steel are to be used.

2. SUPER-STRUCTURE:

- a) Limit state method of design is adopted and partial safety factors on materials and loads are as follows :
 - i) Partial safety factor for material strength of concrete : 1.5
 - ii) Allowable stress in steel :
 - Under factored load condition – 250 N/mm^2
 - Under working load condition – 165 N/mm^2
 - iii) Load factors.
 - a) DL, LL and earth pressure – 1.50
 - b) 15% increase in the allowed stress in steel is allowed while designing the dock system for load combination of 1.5 (DL + LL + EP).
 - c) Surface crack width is limited to 0.004 times to clear cover to the main reinforcement.
 - d) M30 grade of concrete and Fe 415 grade of steel are to be used.
 - e) Minimum reinforcement in piles shall be 0.8% of the cross sectional area for any type of pile.
 - f) No alternative system with anchors (dead man etc., extending beyond the rear face of the berth will be considered).
 - g) Required Holes of pressure relief in the dock shall be provided.
 - h) Expansion joints in the structure shall be provided as required.

DESIGN OF STRUCTURES:

General:

- i) The complete structure shall be designed to be safe against collapse and to maintain at all times and acceptable serviceability level. These shall also be designed to be durable to withstand the deteriorating effects of climate and environment.
- ii) Care shall be taken to provide proper joint treatment between the existing WQ-5 berth and WQ-6 berth. Suitable arrangement shall be planned, designed, constructed by the Concessionaire and the details shall be submitted to the Independent Engineer for review and comments. It is further agreed that any failure or omission of the Independent Engineer to review and/ or comment hereunder



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shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and / or observation of the Independent Engineer and/or its failure to review and / or convey its observations on any document/drawing shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

- iii) The Concessionaire is encouraged to adopt innovative / latest techniques in design, construction and use of new materials. However, in all such cases Concessionaire shall submit all the relevant details along with guidelines and proprietary literature proposed to be followed to Independent Engineer for review and comments. It is further agreed that any failure or omission of the Independent Engineer to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Independent Engineer and/or its failure to review and/or convey its observations on any document/drawing shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

Type of Structure:

- i) The Concessionaire may choose any type of structure and structural system. Design and layout of structures shall be suitable for the soil / site conditions.
- ii) The berth super structure, sub-structure and foundation may be of plain or reinforced concrete, pre-stressed concrete or steel concrete composite construction.
- iii) The following type of structures shall not be accepted:
 - a) Steel sheet pile wall type of construction.
 - b) Wooden piled jetty.

Design period:

The structure shall be designed for design life of 50 (Fifty) years.

Width of the berth:

The width of the berth shall be not less than 15 Mtrs.

Analysis and design of structures:

All structures and their individual components shall be designed and developed as per the latest relevant Indian Standard Codes depending upon the type of structure/individual component proposed to be provided. The minimum cross sectional dimensions of each component shall be provided so as to satisfy the requirements specified in the relevant IS codes and the design shall taken in to account long term durability, serviceability, constructability, construction methodology and environmental factors. The earth retaining structures shall be designed for lateral earth pressure, surcharge and hydrostatic pressures and other horizontal loads.

Design report and Drawings:

The Concessionaire shall furnish the detailed report including designs and drawings for each component of the Project such as layout plan, berth structures, drainage, fixtures and other user facilities etc., as per the requirements specified to the Independent Engineer for his review and comments if any. It is further agreed that any failure or omission of the Independent Engineer to review and / or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Independent Engineer and / or its failure to review and/or convey its observations on any document / drawing shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

MATERIALS

General:

Sourcing of all materials as well as compliance with Environmental requirements under the Applicable Laws in respect of all works to be executed under the Concession Agreement shall be the sole responsibility of the Concessionaire. All materials whether natural (such as earth, gravel, sand, aggregates etc.,) processed (such as concrete mixes, bitumen) or manufactured (such as cement, steel, bollards, fenders, ladders, crane rails etc.,) shall be incorporated in the work only if they are tested and found to meet the requirements of the standards or in the absence of the same conform to the Good Industry Practice.

Natural Materials:

Physical requirements of earth, gravel, sand and aggregates shall conform to the requirements of the provisions of the relevant Indian Standards.

Natural aggregates when crushed and blended for various uses different size fractions shall be proportioned to form grading conforming to the requirements of the relevant Indian Standards as are relevant to the intended use of the material.

Processed materials:

Cement concrete mixes:

Concrete mixes plain or reinforced shall be design mixes designed in accordance with the provisions of IS 456. Concrete of M-30 grade or higher shall be used for the project except for the leveling course in foundations where M-15 grade concrete shall be used. Specific requirements of the mixes (such as workability, water cement ratio, use of admixtures, grades of cement and steel, minimum and maximum cement content, 7 days and 28 days strengths etc.,) shall be as per those provisions of relevant Indian Standard specifications as are relevant to the intended use of the concrete mix.

Bituminous mixes:

Bituminous mixes shall be hot mix type and shall be designed in accordance with the provisions of MOST specifications as relevant to the type of mix intended to be used.

Manufactured materials:

Cement:

Ordinary Port land cement grades 33, 43 and 53 conforming to IS : 269, IS : 8112 and IS : 12269 respectively or Port land slag cement conforming to IS : 455 shall be used subject to the condition that the design cement content does not exceed 540 Kg/cum and the minimum requirement of cement from durability considerations are provided. It is expressly clarified that the use of Port land pozzolana cement shall not be permissible for any structural concrete.

Bitumen:

Paving grade bitumen conforming to IS :73 shall be used. Crumb rubber modified bitumen (CRMB) and polymer modified bitumen (PMB) conforming to IRC :SP: 53 shall be used.

Steel :

High yield strength deformed (HYSD) reinforcing bars of Fe -415 grade conforming to IS:1786 and high tensile strength pre-stressing tendons conforming to IS:6006 shall be used.

Expansion joints, anchorages, fenders, bollards, ladders shall meet the relevant provisions of the Indian Standard Codes, recommendations of the system providers, manufacturers testing and certification and the designers design assumptions.

The Concessionaire may use other construction materials for which a detailed design procedure to be adopted shall be furnished to Independent Engineer for review and comments.



APPENDIX 7

TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

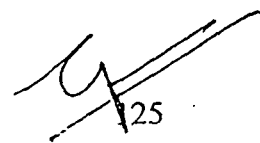
1. Role and functions of the Independent Engineer

The Independent Engineer is expected to play a positive and independent role in discharging its functions, thereby facilitating the smooth implementation of the Project. The role and functions of the Independent Engineer shall include the following:

- (i) review of the Designs and Drawings;
- (ii) review, inspection and monitoring of Construction Works and submit fortnightly progress reports to both Concessionaire and Concessioneing Authority;
- (iii) conducting Tests on completion of construction and issuing Completion / Provisional Certificate;
- (iv) determining, as required under the Agreement, the costs of any works or services and / or their reasonableness;
- (v) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
- (vi) assisting the Parties in resolution of disputes on all technical matters as per the concession agreement and
- (vii) undertaking all other duties and functions as envisaged under the Agreement.

2. Review of Designs and Drawings

- (i) The Independent Engineer shall undertake a detailed review of the Designs & Drawings to be furnished by the Concessionaire along with supporting data, including, if relevant the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments in accordance with this Agreement. In particular, such comments shall specify the conformity or otherwise of such Designs & Drawings with the Project Requirements, Construction Standards and Safety Standards.
- (ii) The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments. The Independent Engineer shall take into account comments and suggestions of the Concessioneing Authority, if any while furnishing the comments.
- (iii) The Independent Engineer shall review the monthly progress reports as regards the Construction Works.


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- (iv) The Independent Engineer shall inspect the Construction Works once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "Inspection Report") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Construction Standards and Safety Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the Construction Works.
- (v) The Independent Engineer may inspect the Construction Works more than once in a month if any lapses, defects or deficiencies require such inspections.
- (vi) For determining that the Construction Works conform to Construction Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- (vii) The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- (viii) In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Construction Standards.
- (ix) In the event that the Concessionaire fails to adhere to the Project Schedule and complete the Construction Works on the specified Milestone Dates, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) Days the steps proposed to be taken to expedite progress, and the period within which the Project shall be completed. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Concesssioning Authority and the Concessionaire forthwith.

- (x) If at any time during the Construction Period, the Independent Engineer determines that it is not safe to carry on Construction Works for any reason whatsoever including if the Concessionaire has not made adequate arrangements for the safety of workers or other third parties or that any work is being carried out in a manner that threatens such safety, it shall make a recommendation to the Concessioneing Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- (xi) Upon remedial measures being taken by the Concessionaire for securing the safety of suspended works, the Independent Engineer shall inspect the safety measures for adequacy and recommend whether or not such suspension may be revoked by the Concessioneing Authority.
- (xii) If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of time for completion, to which the Concessionaire is reasonably entitled, and shall notify the Concessioneing Authority and the Concessionaire of the same.
- (xiii) The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in the Appendix hereto and issue a Completion Certificate or Provisional Certificate, as the case may be, in accordance with the provisions of the Agreement.



Annexure

Tests

- 1) All materials to be used, all methods to be adopted and all works performed shall be strictly in accordance with the relevant IS specification for the project requirement. The relevant specification for the safety and navigational aspects shall be referred for the type of tests and frequency of tests. For this purpose, the responsibility of the Concessionaire and their Contractors will be as per the relevant provisions of this Agreement.
- 2) The Concessionaire shall carry out quality control tests on the material and works at the frequency stipulated in the respective IS codes. The tests on equipments and machinery shall be ensured while its manufacturing and subsequent installation at site. In case of absence of clear indication of the frequency and type of tests the Good Industry Practice shall be used for testing with the approval of the Independent Engineer.
- 3) The Concessionaire shall carry out all necessary tests on materials and works independently and keep their records for reference. The Concessionaire shall prepare a quality audit manual in consultation with the Independent Engineer to ensure better quality of work.
- 4) The provisions of type and frequency of test in relevant IS codes are minimum. The Concessionaire shall conduct all possible tests to ensure quality construction and installation of equipments and machinery.
- 5) The Independent Engineer at his discretion and consistent with the sound engineering practices shall carry out any non-destructive test on completed works, structures, equipments and machinery and any other component to ascertain the soundness of the work.
- 6) Schedule of test.
 - (i) the Concessionaire shall submit a detailed inventory and particulars of all works and equipment and machinery forming part of the agreement
 - (ii) The Concessionaire shall notify the Independent Engineer for its readiness for tests to be conducted
- 7) Tests.
 - (i) **Visual and physical test:** The Independent Engineer shall conduct a visual and physical check of the Port requirements to determine that all works and equipment forming part thereof conform to the provisions of the agreement.
 - (ii) **Test drive:** The Independent Engineer shall arrange for test drives of the movable equipment for the quality of service as per the relevant provisions of the IS codes for manufacture and testing of equipments and machinery
 - (iii) **Structural test :** All the equipment and machinery and structures shall be subjected to load test as the case may be for ascertaining safe working loads.
 - (iv) **Environmental Audit :** The Independent Engineer shall carry out a check to determine conformity of the Project Requirements with the environment requirement set forth in Applicable Laws and Applicable Permits.
 - (v) **Safety Review :** Safety Audit of the Project Requirements shall have to be undertaken with the assistance of the relevant statutory authorities and

determine conformity of the Project Requirements with the provisions of the Agreement.

- (vi) **The procedures for tests:** The procedures as stipulated in the relevant IS specifications shall be adhered and the equipments for testing shall be arranged through the Concessionaire.

- 8) The Independent Engineer shall obtain a copy of operational and maintenance manuals of the Project Requirements from the Concessionaire and verify the contents of the manual in order to meet the following requirements.

The operation and maintenance manual shall essentially comprise of general requirement of O&M, O&M plans, replacement of maintenance parts, schedule of routine maintenance, schedule of preventive maintenance and periodic maintenance. The manual will also cover the minimum maintenance requirement to adhere to the Performance Standards as per the provisions of this Agreement. The manual shall generally cover the expected failures and time taken for repairs and maintenance.

- 9) The test procedure shall be followed as per ASTM, BIS, IS

- 10) Test shall also satisfy the appropriate Authority and certification

- (i) Dock safety Directorate
- (ii) Environmental Authority
- (iii) Director of Explosives
- (iv) Fire
- (v) Ground Water Authority
- (vi) Customs



APPENDIX 8

PERMITS AND CLEARANCES PROCURED BY THE CONCESSIONAIRE/ CONCESSIONING AUTHORITY

Procurement of MoEF clearance for the Project will be the responsibility of the Concessioning Authority. However, the stipulations put forth by MoEF while granting the Environmental Clearance including the Environment Management Plan shall be the responsibility of the Concessionaire.

Concessionaire is liable to obtain Applicable Permits as and when required before commencement of the construction works.

A. The following is list of Applicable Permits, the list of Applicable Permits is not exhaustive however, the Concessionaire will have to ascertain independently the Applicable Permits and indicate time frame for obtaining the Applicable Permits.

Activity	Authority
Environmental Clearance	Consent for Establishment (CFE) under the provisions of water (P&C) Act 1974 and Air (P&C) Act 1981 from Andhra Pradesh State Pollution Control Board.
Plot Plan approval	Dock safety Inspector / OISD guidelines.
Electrical Installations	Electrical Inspectorate, Govt. of Andhra Pradesh
Fire Safety Concerns	Chief Fire Officer, Hyderabad OISD guidelines or Applicable international codes / practices

B. The following is a list of the Applicable Permits available with the Concessioning Authority:

Activity	Authority
Port Limit Notification	Ministry of Shipping
Custom Notification for Part of area proposed to be leased.	Commissioner of Customs.
Environmental Clearance	Prior Environmental clearance from MOEF, New Delhi.

APPENDIX 9

PERFORMANCE GUARANTEE (PROFORMA OF BANK GUARANTEE)⁴⁰

THIS DEED OF GUARANTEE executed on this the --- day of --- at --- by ---
----- (Name of the Bank) having its Head/Registered office at -----


----- hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns;

In favour of

THE VISAKHAPATNAM PORT TRUST, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at VISAKHAPATNAM – 530 035, ANDHRA PRADESH, INDIA (hereinafter referred to as "the Board" or "the Concessioneing Authority") which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- a) The Board, vide its Request for Proposal dated 12.08.2009 ("the RFP") invited duly short listed bidders to implement a project envisaging planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks at WQ-6 berth in the northern arm of inner harbour of Visakhapatnam port by private sector participation (more particularly described in Appendix 1 and hereinafter referred to as "the Project");
- b) After evaluation of the bids received in response to the RFP, the Board accepted the bid of M/s. ABG Infallogistics Ltd. ("the Applicant") and issued the Letter of Intent No IENG /EE(Projects) / WQ-6 /2010/45 dated 18.01.2010 ("LOI") to the Consortium/Applicant requiring, inter alia, the execution of the Concession Agreement, ("the Concession Agreement") the draft whereof was provided in the RFP;
- c) Pursuant to the LOI the Applicant/Consortium has promoted and incorporated a special purpose company West Quay Multiport Pvt. Ltd. ("the Concessionaire"), to enter into the Concession Agreement for undertaking, inter alia, the work with respect to the Project referred to in Recital (a) above and to perform and discharge all its obligations thereunder.

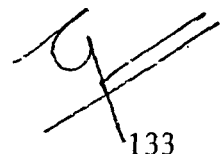

⁴⁰ To be issued by a Scheduled Bank in India.

- d) In terms of the LOI and the Concession Agreement, the Concessionaire is required to furnish to the Board, a Performance Guarantee being an unconditional and irrevocable Bank Guarantee from a Scheduled Bank for a sum of Rs. 57.25 million (Rupees fifty seven decimal two five million only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement during the Construction Phase,
- e) At the request of the Concessionaire, and for valid consideration the Guarantor has agreed to provide guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations under the Concession Agreement during the Construction Phase.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalized terms used herein but not defined shall have the meaning assigned to them/respectively in the Concession Agreement.
2. The Guarantor hereby irrevocably and unconditionally guarantees the due execution and punctual performance by M/s. West Quay Multiport Pvt. Ltd. ("the Concessionaire") of all its obligations under the Concession Agreement during the Construction Phase.
3. The Guarantor shall, without demur or protest, pay to the Board sums not exceeding in aggregate Rs. 57.25 million (Rupees fifty seven decimal two five million only) within five (5) calendar Days of receipt of a written demand therefor from the Board stating that the Concessionaire has failed to meet its performance obligations under the Concession Agreement during the Construction Phase. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by the Board and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person before any court, tribunal, expert, arbitrator or similar proceedings. The Guarantor's obligations hereunder shall subsist until all such demands of the Board are duly met and discharged in accordance with the provisions hereof. Any such demand made on the Guarantor by the Board shall be conclusive, absolute and unequivocal as regards the amount due and payable by the Guarantor under this Agreement. The Concessioneing Authority shall at all times at its sole discretion have the absolute and unconditional right to call upon the Guarantor to pay the amount under the Guarantee.
4. In order to give effect to this Guarantee, the Board shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted by the Board or postponement/non exercise/ delayed exercise of any of its rights by the Board or any indulgence shown by the Board to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise or delayed exercise by the Board of any of the Board's rights or any indulgence shown by the Board; provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.

5. This Guarantee shall be unconditional and irrevocable and shall remain in full force and effect until Scheduled Project Completion Date and for a period of twelve months thereafter unless discharged/released earlier by the Board in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate shall be limited to a sum of Rs. 57.25 million (Rupees fifty seven decimal two five million. only).
6. This Guarantee shall not be affected by any change in the constitution or winding up, insolvency, bankruptcy, dissolution or liquidation of the Concessionaire / the Guarantor or any absorption, merger or amalgamation of the Concessionaire / the Guarantor with any other Person.
7. Any payment made hereunder shall be made free and clear of, and without deduction for or on account of taxes, levies, imposts, duties, charges, fees, deductions, or withholding of any nature whatsoever.
8. The Guarantor hereby irrevocably and unconditionally undertakes, agrees and acknowledges that its obligations as a Guarantor hereunder:
- a. shall not be affected by the existence of or release or variation of any other guarantee or security for any of the obligations of the Concessionaire under the Concession Agreement;
 - b. shall not be affected by any failure by the Concessioneing Authority to perform any of its obligations under the Agreement;
 - c. shall not be affected by any failure or delay in payment of any fee or other amount payable to the Guarantor in respect hereof;
 - d. shall not be affected by any exercise or non-exercise of any right, remedy, power or privilege of any person under or in respect of any payment obligations of the Concessionaire under the Concession Agreement;
 - e. shall not be affected by any failure, omission or delay on the Concessioneing Authority's part to enforce, assert or to exercise any right, power or remedy conferred on the Concessioneing Authority in this Guarantee;
 - f. shall not be affected by any act, omission, matter or thing which, but for this clause would reduce, release or prejudice the Guarantor from any of the obligations under this Guarantee or prejudice or diminish the obligations in whole or in part.



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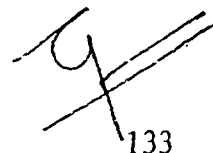
9. The obligations, covenants, agreements and duties herein shall not be subject to any counterclaims, cross claims, set offs, deductions, withholdings, diminutions, abatements, recoupments, suspensions, deferments, reductions or defence for any reason whatsoever and the Guarantor, shall have no right to terminate this Guarantee or to be released, relieved or discharged from any of its obligations, covenants, agreements and duties hereunder for any reason whatsoever.
10. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.
11. This Guarantee shall be governed by and construed in accordance with the laws of India. The Guarantor hereby irrevocably submits to the exclusive jurisdiction of the Court of Visakhapatnam for the purposes of any suit, action, or other proceeding arising out of this Guarantee, or the subject matter hereof, brought by the Concessioneing Authority or its successors or assigns. To the extent permitted by Applicable Law, the Guarantor or its successors or assigns hereby waive, and shall not assert, by way of motion, as defence, or otherwise, in any such suit, action, or proceeding any claim that such suit, action, or proceedings is brought in an inconvenient forum, or that the value of such suit, action, or proceeding is improper, or that the subject matter hereof may not be enforced in or by such court.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS
HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE
WRITTEN

SIGNED AND DELIVERED by _____ Bank by the hand of Shri _____
its _____ and authorized official.



5. This Guarantee shall be unconditional and irrevocable and shall remain in full force and effect until Scheduled Project Completion Date and for a period of twelve months thereafter unless discharged/released earlier by the Board in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate shall be limited to a sum of Rs. 57.25 million (Rupees fifty seven decimal two five million. only).
6. This Guarantee shall not be affected by any change in the constitution or winding up, insolvency, bankruptcy, dissolution or liquidation of the Concessionaire / the Guarantor or any absorption, merger or amalgamation of the Concessionaire / the Guarantor with any other Person.
7. Any payment made hereunder shall be made free and clear of, and without deduction for or on account of taxes, levies, imposts, duties, charges, fees, deductions, or withholding of any nature whatsoever.
8. The Guarantor hereby irrevocably and unconditionally undertakes, agrees and acknowledges that its obligations as a Guarantor hereunder:
- a. shall not be affected by the existence of or release or variation of any other guarantee or security for any of the obligations of the Concessionaire under the Concession Agreement;
 - b. shall not be affected by any failure by the Concessioneing Authority to perform any of its obligations under the Agreement;
 - c. shall not be affected by any failure or delay in payment of any fee or other amount payable to the Guarantor in respect hereof;
 - d. shall not be affected by any exercise or non-exercise of any right, remedy, power or privilege of any person under or in respect of any payment obligations of the Concessionaire under the Concession Agreement;
 - e. shall not be affected by any failure, omission or delay on the Concessioneing Authority's part to enforce, assert or to exercise any right, power or remedy conferred on the Concessioneing Authority in this Guarantee;
 - f. shall not be affected by any act, omission, matter or thing which, but for this clause would reduce, release or prejudice the Guarantor from any of the obligations under this Guarantee or prejudice or diminish the obligations in whole or in part.



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9. The obligations, covenants, agreements and duties herein shall not be subject to any counterclaims, cross claims, set offs, deductions, withholdings, diminutions, abatements, recoupments, suspensions, deferments, reductions or defence for any reason whatsoever and the Guarantor, shall have no right to terminate this Guarantee or to be released, relieved or discharged from any of its obligations, covenants, agreements and duties hereunder for any reason whatsoever.
10. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.
11. This Guarantee shall be governed by and construed in accordance with the laws of India. The Guarantor hereby irrevocably submits to the exclusive jurisdiction of the Court of Visakhapatnam for the purposes of any suit, action, or other proceeding arising out of this Guarantee, or the subject matter hereof, brought by the Concessioneing Authority or its successors or assigns. To the extent permitted by Applicable Law, the Guarantor or its successors or assigns hereby waive, and shall not assert, by way of motion, as defence, or otherwise, in any such suit, action, or proceeding any claim that such suit, action, or proceedings is brought in an inconvenient forum, or that the value of such suit, action, or proceeding is improper, or that the subject matter hereof may not be enforced in or by such court.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS
HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE
WRITTEN

SIGNED AND DELIVERED by _____ Bank by the hand of Shri _____
its _____ and authorized official.



APPENDIX 10

CERTIFICATES COMPLETION CERTIFICATE

1. I, [•] (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Agreement dated [•], for planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks at WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port by private sector participation Project on Design, build, Finance, operate and transfer (DBFOT) basis, through [(Name of Concessionaire)], hereby certify that the Tests specified in Article [•] and Schedule-[•] of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and I am satisfied that the Project can be safely and reliably placed in commercial service of the users thereof.
2. It is certified that, in terms of the aforesaid Agreement, all works forming part of the Project have been completed, and the Project is hereby declared fit for entry into commercial operation on this the [•] day of [•] 20[•].

SIGNED, SEALED AND DELIVERED For and on behalf of
the INDEPENDENT ENGINEER by:

(Signature)

(Name)

(Designation)

(Address)



PROVISIONAL CERTIFICATE

1. I, [[•] (Name of the Independent Engineer)], acting as Independent Engineer, under and in accordance with the Agreement dated [•], for planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks at WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port by private sector participation Project on Design, build, Finance, operate and transfer (DBFOT) basis through [• (Name of Concessionaire)], hereby certify that the Tests specified in Article [•] and Schedule-[•] of the Agreement have been undertaken to determine compliance of the Project with the provisions of the Agreement.
2. Construction Works that were found to be incomplete and/or deficient have been specified in the Punch List appended to the Provisional Certificate, and the Concessionaire has agreed and accepted that it shall complete and/or rectify all such works in the time and manner set forth in the Agreement. Some of the incomplete works have been delayed as a result of reasons attributable to the Concessioning Authority or due to Force Majeure and the Provisional Certificate cannot be withheld on this account. Though the remaining incomplete works have been delayed as a result of reasons attributable to the Concessionaire, I am satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project, pending completion thereof.
3. In view of the foregoing, I am satisfied that the Project can be safely and reliably placed in commercial service of the users thereof, and in terms of the Agreement, the Project is hereby provisionally declared fit for entry into commercial operation on this the [•] day of [•] 20[•].

ACCEPTED, SIGNED, SEALED AND
DELIVERED

For and on behalf of
CONCESSIONAIRE by:

(Signature)

(Name and Designation)

(Address)

SIGNED, SEALED AND
DELIVERED

For and on behalf of
INDEPENDENT ENGINEER by:

(Signature)

(Name and Designation)

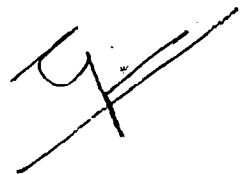
(Address)



APPENDIX 11

PERSONNEL AND LABOUR REQUIREMENTS

The Project does not envisage taking over of any personnel / labour from the Authority



APPENDIX 12

TARIFFS

The Concessionaire may charge fees for the Project Facilities and Services provided in accordance with the Tariff Notification no. 26 dated 24.02.2009 published by TAMP and updated as per indexation on WPI communicated by TAMP vide letter dated 31.03.2009. As a ready reference, the relevant extract of the Tariff Notification is as under:

1. BERTH HIRE CHARGES:

Sl. No.	Vessels	Rate per GRT per hour or part thereof	
		Foreign Going Vessel (in Rs.)	Coastal Vessel (in Rs.)
1	Vessels carrying CP Coke, LAM Coke, Steel and Granite Blocks	0.81	0.49

2. BULK CARGO HANDLING CHARGES:

Sl. No.	Commodity	Unit	Rate in Rupees	
			Foreign	Coastal
(a)	C.P. COKE	Per Metric Tonne	82.79	49.67
(b)	LAM COKE	Per Metric Tonne	82.79	49.67
(c)	STEEL	Per Metric Tonne	213.35	128.03
(d)	GRANITE BLOCKS	Per Metric Tonne	329.62	197.77

3. STORAGE CHARGES:


Description	Rate in Rs. per tonne per day
First week after expiry of free period	9.07
2 nd week after expiry of free period	13.61
Beyond 2 nd week	18.14

The aforesaid Tariff caps shall be revised every year based on a variation in the Wholesale Price Index ("WPI"). Such revision shall be based on indexation against 60% (sixty percent) of the variation in the WPI for a relevant year beginning 1st January and ending 31st December.

APPENDIX 13

RATES APPLICABLE IN RESPECT OF LAND, UTILITIES AND SERVICES

- 1. For Land : Schedule of Rates.
- 2. For Utilities and services : Scale of Rates.





APPENDIX 14

MINIMUM GUARANTEED CARGO

The minimum guaranteed cargo will be as follows for the project.

Period *	Minimum guaranteed cargo
1 to 3 years	25% of 2.08 M.T. = 0.52 M.T.
4 to 5 years	40% of 2.08 M.T. = 0.83 M.T.
Beyond 5 years	60% of 2.08 M.T. = 1.25 M.T.

* The period is reckoned from the date of commercial operations.



APPENDIX 15

PERFORMANCE STANDARDS

Performance Standards

1. Gross Berth Output

The parameter deals with the productivity of the terminal (Gross Berth Output) for different types of cargo. In case of dry and break-bulk cargo, the capability of the terminal (mechanization, method of handling) and parcel size will determine the Gross Berth Output. Higher terminal capability and greater parcel size will lead to high productivity.

The Gross Berth Output shall be calculated as the total cargo handled (either loaded / unloaded) from the ship during a month divided by the time spent by the ship at the terminal i.e number of working days at the berth.

The indicative norms for Gross Berth Output for different categories of cargo are as follows:

Cargo Category	Indicative Norms
DRY BULK:	
1. C.P.COKE	10,000 tonnes per day
2. LAM COKE	10,000 tonnes per day
3. STEEL	4,000 tonnes per day
4. GRANITE BLOCKS	2,500 tonnes per day

Weightage in case of a shortfall in meeting the prescribed performance standard – 70%

2. Transit Storage Dwell Time:

(a) Bulk Cargo

The Transit Storage Dwell Time for coal / coke / mixed dry bulk cargo shall be calculated, as half of average parcel size of above cargo vessels in a month divided by average disposal of cargo from the port per day as per the following methodology:

$$\text{Average disposal of Cargo per day (A)} = \frac{\text{OB} + \text{Received} / \text{Despatched} - \text{CB}}{\text{No. of days}}$$

OB = Opening Balance, CB = Closing Balance.

$$\text{Average Parcel Sizes (B)} = \frac{P_1 + P_2 + \dots + P_n}{n(\text{no. of parcels})}$$

$P_1, P_2 \dots P_n$ are parcel size of each vessel in a month.

$$\text{Transit Storage Time for Bulk Cargo} = 0.5 (B / A)$$

(b) Break-bulk cargo:

The Transit Storage Dwell Time of Break Bulk cargo shall be calculated in the same manner as calculated for container in the terminal. The Transit Storage Dwell Time for Break Bulk Cargo is the sum of time of each unit of cargo that remains in the Port in a month divided by the number of cargo units handled during that month in the terminal. To further clarify, the time the break bulk cargo remains in the port will commence from the date and time of landing till the date and time of exit from the Port in case of import and for export from the date and time the cargo entered the Port area till the date and time of the shipment.

Weightage in case of a shortfall in meeting the prescribed performance standard – 20%

3. Turn around Time for receipt/delivery operation:

The Turn around Time for receipt / delivery operation shall be the sum of time taken for loading / unloading of cargo divided by the number of trucks / trailers / rakes deployed, as the case may be, in a month. Further, in case the truck / trailer / rake does both unloading and loading operations on a single entry into the terminal, the time allocated shall be doubled for those trucks / trailers / rakes.

Truck / Rake	Turn around time
Truck for conventional cargo (Single operation)	4 Hours
Truck for conventional cargo (Double operation)	8 Hours
Rake for dry bulk cargo (Single operation)	10 Hours
Rake for dry bulk cargo (Double operation)	18Hours

Weightage in case of a shortfall in meeting the prescribed performance standard – 10%

Performance Evaluation and calculation of liquidated damages:

Performance evaluation shall be made on a quarterly review of the reports furnished by the Concessionaire and/or the records of the Concessionaire and/or by an enquiry by the Concessioning Authority. The Concessionaire shall be liable to pay liquidated damages determined at the rate of 1% (one per cent) of the Gross Revenue of the respective quarter for every shortfall of 10% (ten per cent) in the average performance which shall be assessed in the following manner.

Each Performance Standard is calculated as an average in the manner indicated above. The actual average performance vis-à-vis a standard will be evaluated against the prescribed standard. The shortfall will be computed as a percentage of the prescribed standard. The shortfall in respect of each performance standard will have a weightage assigned to it. The overall shortfall in average performance shall be assessed as the aggregate of the weighted shortfalls in respect of each of the performance standards. For example, if there is a shortfall in Gross Berth Output by x%, Transit Storage Dwell Time by y% and Turn round time for receipt/delivery operations by z% and the weightage assigned to such shortfalls is 0.7, 0.2 and 0.1 respectively, then the overall shortfall in average performance will be $(0.7x + 0.2y + 0.1z)\%$.

APPENDIX 16
ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the [•] day of [•] 20[•].

AMONGST

1. West Quay Multiport Pvt. Ltd., a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai – 400 004, India (hereinafter referred to as the “Concessionaire” which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
2. [• (name and particulars of Lenders' Representative)] and having its registered office at [•] acting for and on behalf of the Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the “Lenders' Representative” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);
3. [• (name and particulars of the Escrow Bank)] and having its registered office at [•] (hereinafter referred to as the “Escrow Bank” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
4. BOARD OF TRUSTEES for VISAKHAPATNAM PORT, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at VISAKHAPATNAM – 530 035 hereinafter referred to as “the Concessioning Authority” (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

WHEREAS:

- (A) The Concessioning Authority has entered into a Concession Agreement dated July 31, 2010 with the Concessionaire (the “Concession Agreement”) for undertaking the Project (as defined in the Concession Agreement) on design, build, finance, operate and transfer (DBFOT) basis. The Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Documents.
- (B) The Concession Agreement requires the Concessionaire to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein. NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Agreement" means this Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

"Budget" means the budget for construction/implementation expenses relating to the Project / Project Facilities and Services and O&M Expenses submitted by the Concessionaire in accordance with the provisions contained herein;

"Concession Agreement" means the Concession Agreement referred to in Recital (A) above and shall include any amendments made thereto in accordance with the provisions contained in this behalf therein;

"Escrow Account" means an escrow account established in terms of and under this Agreement, and shall include any sub accounts thereof;

"Escrow Default" shall have the meaning ascribed thereto in Clause 6.1;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"Parties" means the parties to this Agreement collectively and **"Party"** shall mean any of the Parties to this Agreement individually;

"Payment Date" means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

"Quarter" means, any three month period from 1st April to 30th June, 1st July to 30th September, 1st October to 31st December or 1st January to 31st March.

1.2 Interpretation

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Lenders.

1.2.2 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.3 References to Articles are, unless stated otherwise, references to Articles of this Agreement.

- 1.2.4 The rules of interpretation stated in Articles 1.3, 1.4 and 1.5 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Concessionaire hereby settles in trust with the Escrow Bank a sum of Rs. 100 (Rupees Hundred Only) appoints the Escrow Bank to act as trustee for the Concessioning Authority, the Lenders, the Lenders' Representative and the Concessionaire in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Concessioning Authority, the Lenders, the Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Concessioning Authority, the Lenders / Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of, or as third party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Lenders or the Concessioning Authority with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Concessioning Authority, the Lenders' Representative and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within 30 (thirty) Days from the date of this Agreement, and in any case prior to the Date of Award of Concession, the Concessionaire shall open and establish the Escrow Account with the [(name of Branch)] Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Concessionaire shall submit to the Escrow Bank a Budget within 7 (seven) Days of the commencement of each Financial Year. Till the pendency of the financing Documents, such Budget shall be approved by the Lenders' Lenders' Representative and thereafter by the Concessioneing Authority.

2.3.4 The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the operating and maintaining expenses and shall be appropriated from the Escrow Account in accordance with Article 4.1.1 (c).

2.5 Rights of the parties

The rights of the Concessioneing Authority, the Lenders (through the Lenders' Representative) and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Concessioneing Authority, the Lenders' and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Concessionaire

The Parties hereto acknowledge and agree that upon substitution of the Concessionaire with the Selectee, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Selectee is a Party hereto and the Selectee shall accordingly be deemed to have succeeded to the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Selectee.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

The Concessionaire agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:

- (a) all monies received in relation to the Project from any source, including the Lenders;
- (b) all funds received by the Concessionaire from its share-holders, in any manner or form;
- (c) all Fee levied and collected by the Concessionaire;

- (d) any other revenues from or in respect of the Project/Project Facilities and Services accruing to the Concessionaire including termination payments; and
- (e) all proceeds received pursuant to any insurance claims.

For avoidance of doubt, all amounts received by the Concessionaire in respect of the Project/Project Facilities and Services excepting any amounts in respect of cesses and duties collected by it from the users on behalf of the Concessioneing Authority or such other authority in accordance with the Concession Agreement or pursuant to any other instructions in respect thereof shall be deposited in the Escrow Account.

4. WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments in a month :

- (a) all taxes due and payable by the Concessionaire;
- (b) towards License Fee;
- (c) all construction / implementation expenses relating to the Project / Project Facilities and Services, in accordance with the Budget and subject to limits if any set out under the Financing Documents;
- (d) all expenses relating to operations and management of the Project / Project Facilities and Services, in accordance with the Budget and subject to limits if any set out under the Financing Documents;
- (e) towards its debt service obligations under the Financing Documents;
- (f) towards Royalty and other sums payable to the Concessioneing Authority and liquidated damages, if any;
- (g) towards any reserve requirements in accordance with the Financing Documents;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the escrow account after all the aforesaid payments due in any Quarter have been made and/or adequate reserves have been created in respect thereof for that Quarter.

4.1.2 Not later than 60 (sixty) Days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Article 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon end of Concession Period



All amounts standing to the credit of the Escrow Account at the end of the Concession Period including amounts credited to the Escrow Account towards compensation payable in accordance with Article 17 of the Concession Agreement shall be appropriated in the following order of priority:

- (i) towards taxes and statutory dues payable by the Concessionaire;
- (ii) compensation to Lenders in terms of the Financing Documents towards discharge of the Concessionaire's liability under such Financing Documents;
- (iii) all amounts due to the Concessioning Authority and amounts payable towards transfer of the Project Facilities and Services by the Concessionaire in accordance with this Agreement;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the Escrow Account after all the aforesaid payments due have been made and / or adequate reserves have been created in respect thereof to the satisfaction of the Lenders and the Concessioning Authority and the Escrow Agent has received a confirmation of final settlement by the Lenders and/or Concessioning Authority.

4.3 Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and / or credited to the Escrow Account and utilized for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project / Project facilities and Services, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Documents.



4.4 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, in case the Escrow Bank receives a notice in writing from the Concession Authority that the rights of the Concessionaire are suspended in accordance with the Concession Agreement or a Termination Notice is issued, the Escrow Bank shall until such notice is withdrawn, act only on the instructions of the Concessing Authority.

5. OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of balances

7 (seven) business Days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account as at the close of business on the immediately preceding business day.

5.3 Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

- (a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Concessionaire upon a certificate signed by or on behalf of the Concessionaire;
- (b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;
- (c) shall, within 5 (five) business Days after receipt, deliver a copy to the Lenders' Representative of any notice or document received by it in its capacity as the Escrow Bank from the Concessionaire or any other person hereunder or in connection herewith; and
- (d) shall, within 5 (five) business Days after receipt, deliver a copy to the Concessionaire of any notice or document received by it from the Lenders' Representative in connection herewith.

5.4 No set off

~~The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.~~

5.5 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Concessionaire (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Concessioneing Authority or the Lenders' Representative:

- (a) the Concessionaire commits breach of this Agreement by failing to deposit / cause the deposit of any receipts into the Escrow Account;
- (b) the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement; or
- (c) the Concessionaire commits or causes any other breach of the provisions of this Agreement.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

7. TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or financial assistance received by it from the Lenders, or any of its obligations to the Concessioneing Authority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty five) Days prior notice to the Escrow Bank, the Concessioneing Authority and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank. The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

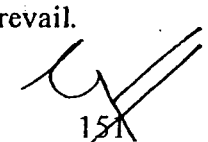

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire and the Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement and the Financing Documents including the payments specified in Article 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and pay any amount standing to the credit thereof to the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8. SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Escrow Account, creation of sub-accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Lenders, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of Financing Documents, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.



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9. INDEMNITY

9.1 General indemnity

- 9.1.1 The Concessionaire will indemnify, defend and hold the Concessioneing Authority, Escrow Bank and the Lenders, *acting through the Lenders' Representative*, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Conccssionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.
- 9.1.2 The Concessioneing Authority will indemnify, defend and hold the, Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Concessioneing Authority to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Concessioneing Authority, its officers, servants and agents.
- 9.1.3 The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) Days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.



10. MISCELLANEOUS PROVISIONS

~~10.1~~ Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at VISAKHAPATNAM shall have jurisdiction over all matters arising out of or relating to this Agreement.

10.2 Waiver of sovereign immunity

The Concessioneing Authority unconditionally and irrevocably:

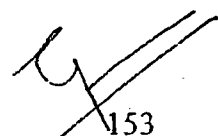
- (a) agrees that the execution, delivery and performance by it of this Agreement shall constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Concessioneing Authority with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

10.3 Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

10.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorized representatives of the Parties.


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10.5 Waiver

~~10.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:~~

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (b) shall not affect the validity or enforceability of this Agreement in any manner.

10.5.2 Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

10.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

10.7 Survival

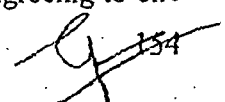
10.7.1 Termination of this Agreement:

- (a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

10.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

10.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one



10.9 Successors and assigns

10.10 Notices

_____Ltd

Fax No. _____

Email: _____

or such other address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

10.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

10.12 Authorised representatives

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

10.13 Original Document

This Agreement may be executed in four counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED
THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of CONCESSIONAIRE by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No:)

SIGNED, SEALED AND DELIVERED

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For and on behalf of LENDERS by the Lenders' Representative:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of ESCROW BANK by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of Concessioning Authority by:

(Signature)

(Name)

(Designation)

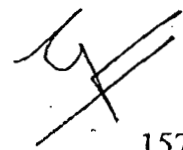
(Address)

(Fax No.)

In the presence of:

1.

2.



APPENDIX 17

PRE-CONTRACT INTEGRITY PACT

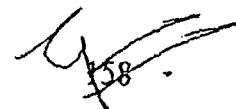
General:

This Integrity Pact is made on this the 31st day of -July -2010 between

1. The Board of Trustees for Visakhapatnam Port Trust a body corporate constituted under MPPI Act, 1963 (hereinafter referred to as the Concessioneing Authority and the first party) represented by its Secretary and Attorney of the Board which expression shall unless repugnant to the context shall mean and include all its succession, assignees etc., on one part,
And
M/s West Quay Multiport Pvt. Ltd. represented by, Mr. Gurpreet Malhi (hereinafter referred to as the Concessionaire) which expression shall unless repugnant to the context shall mean and include all its succession, assignees etc., on the other part.
2. Whereas the Concessionaire is a Special Purpose Vehicle constituted in accordance with the relevant law in the matter and the Concessioneing Authority is a Major Port Trust under Ministry of Shipping, the Government of India and whereas the Concessionaire (2nd party) was shortlisted and identified in the bid process to provide/ offer certain services detailed in the bid documents to the Concessioneing Authority (1st party).

Objectives:

3. Now, therefore, the Concessioneing Authority and the Concessionaire agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-
 - 3.1 Enabling the Concessioneing Authority to obtain the desired services in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on port services, and
 - 3.2 Enabling Concessionaire to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Concessioneing Authority will commit to prevent corruption, in any form, by their officials by following transparent procedures.



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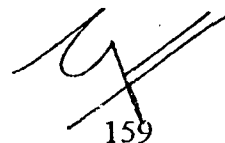
Commitments of the Concessioneing Authority

4. The Concessioneing Authority Commits itself to the following:-

- 4.1 The Concessioneing Authority undertakes that no official of the Concessioneing Authority, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Concessionaire, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the Contract.
- 4.2 The Concessioneing Authority will, during the pre-contract stage, treat all Concessionaires alike, and will provide to all Concessionaires the same information and will not provide any such information to any particular Concessionaire which could afford an advantage to that particular Concessionaire in comparison to other Applicants.
- 4.3 All the officials of the Concessioneing Authority will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
5. In case of any such preceding misconduct on the part of such official(s) is reported by the Concessionaire to the Concessioneing Authority with full and verifiable facts and the same is *prima facie* found to be correct by the Concessioneing Authority, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Concessioneing Authority and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Concessioneing Authority the proceedings under the contract would not be stalled.

Commitments of Concessionaires

6. The Concessionaire commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:-


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- 6.1 The Concessionaire will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, ~~commission, fees, brokerage or inducement to any official of the Concessioneing Authority,~~ connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.
- 6.2 The Concessionaire further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Concessioneing Authority or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Government.
- 6.3 The Concessionaire will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 6.4 The Concessionaire will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 6.5 The Concessionaire further confirms and declares to the Concessioneing Authority that the Concessionaire is the original manufacturer / integrator / authorised government sponsored export entity of the defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Concessioneing Authority or any of its functionaries, whether officially or unofficially to the award of the contract to the Concessionaire, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- 6.6 The Concessionaire, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Concessioneing Authority or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 6.7 The Concessionaire shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Concessioneing Authority as part of

the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Concessionaire also undertakes to exercise due and adequate care lest any such information is divulged.

- 6.8 The Concessionaire commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 6.9 The Concessionaire shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

7. Previous Transgression

- 7.1 The Concessionaire declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India, that could justify Concessionaire's exclusion from the tender process.
- 7.2 If the Concessionaire makes incorrect statement on this subject, Concessionaire can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

8. Earnest Money / Security Deposit

8.1. Every Concessionaire, while submitting commercial bid, shall deposit an amount* as specified in the RFP as Earnest Money / Security Deposit, with the Concessioneing Authority through any of the following instruments.

- (i) The Bidder shall furnish as part of its Bid, a certified true copy (signed by a Director) of the Bid Security herein above in the form of a bank guarantee issued by a nationalised bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore, in favour of the Authority in the format at Appendix – II (the "Bank Guarantee") and having a validity period of not less than 180 days from the Bid Due Date, as may be extended by the Bidder from time to time. The Bank Guarantee that is required to be submitted by the Bidder shall be sent in original to the Authority directly by the issuing Bank vide Registered post. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

- (ii) Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Authority and payable at Visakhapatnam (the

"Demand Draft"). The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

(iii) Any other mode or through any other instrument, as stated in RFP.

* The Bidder shall deposit a Bid Security equivalent to [about 1% (one per cent)] of the Estimated Project Cost, i.e Rs.11.45 million (Rupees Eleven decimal four five million only), in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee, acceptable to the Authority

8.2 In the case of successful Concessionaire a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the Concessioneing Authority to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

8.5 The provisions regarding Sanctions for Violation in Integrity Pact include forfeiture of Performance Bond in case of a decision by the Concessioneing Authority to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

8.6 No interest shall be payable by the Concessioneing Authority to the Concessionaire(s) on Earnest Money / Security Deposit for the period of its currency.

9. Company Code of Conduct

9.1 Concessionaires are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

10. Sanctions for Violation

10.1 Any breach of the aforesaid provisions by the Concessionaire or any one employed by him or acting on his behalf (whether with or without the knowledge of the Concessionaire) or the commission of any offence by the Concessionaire or any one employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Concessioneing Authority to take all or any one of the following actions, wherever required:-

- (i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Concessionaire. However, the proceedings with the other Concessionaire(s) would continue.
-
- (ii) The Earnest Money / Security Deposit / Performance Bond shall stand forfeited either fully or partially, as decided by the Concessioneing Authority and the Concessioneing Authority shall not be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Concessionaire.
- (iv) To recover all sums already paid by the Concessioneing Authority, and in case of an Indian Concessionaire with interest thereon at 2% higher than the prevailing Prime Lending Rate, while in case of a Concessionaire from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Concessioneing Authority from the Concessionaire in connection with any other contract, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
- (v) To encash the advance bank guarantee and performance bond, if furnished by the Concessionaire, in order to recover the payments, already made by the Concessioneing Authority, along with interest.
- (vi) To cancel all or any other Contracts with the Concessionaire.
- (vii) To debar the Concessionaire from entering into any bid from any of the Major Ports in India for a minimum period of five years, which may be further extended at the discretion of the Concessioneing Authority.
- (viii) To recover all sums paid in violation of this Pact by Concessionaire to any middleman or agent or broker with a view to securing the contract.
- (ix) If the Concessionaire or any employee of the Concessionaire or any person acting on behalf of the Concessionaire, either directly or indirectly, is closely related to any of the officers of the Concessioneing Authority, or alternatively, if any close

relative of an officer of the Concessioneing Authority has financial interest/stake in the Concessionaire's firm, the same shall be disclosed by the Concessionaire at the time of filing of tender. Any failure to disclose the interest involved shall entitle the Concessioneing Authority to rescind the contract without payment of any compensation to the Concessionaire.

The term 'close relative' for this purpose would mean spouse whether residing with the Government servant or not, but not include a spouse separated from the Government servant by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law; any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependant upon Government servant.

- (x) The Concessionaire shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Concessioneing Authority, and if he does so, the Concessioneing Authority shall be entitled forthwith to rescind the contract and all other contracts with the Concessionaire. The Concessionaire shall be liable to pay compensation for any loss or damage to the Concessioneing Authority resulting from such rescission and the Concessioneing Authority shall be entitled to deduct the amount so payable from the money(s) due to the Concessionaire.
- (xi) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Concessioneing Authority with the Concessionaire, the same shall not be opened.

10.2 The decision of the Concessioneing Authority to the effect that a breach of the provisions of this Integrity Pact has been committed by the Concessionaire shall be final and binding on the Concessionaire, however, the Concessionaire can approach the monitor(s) appointed for the purposes of this Pact.

11. Fall Clause

- 11.1 The Concessionaire shall strive to accord the most favoured customer treatment to the Concessioneing Authority in respect of all matters pertaining to the present case.

12. Independent Monitors

- 12.1 The Concessioneing Authority will appoint Independent Monitors for this Pact, in consultation with the Central Vigilance Commission.

- 12.2 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform Chairman., Visakhapatnam Port Trust under Ministry of Shipping, Government of India.

13. Examination of Books of Accounts

In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Concessioneing Authority or its agencies shall be entitled to examine the Books of Accounts of the Concessionaire and the Concessionaire shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.

14. Law and Place of Jurisdiction


This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Concessioneing Authority i.e. Visakhapatnam, Andhra Pradesh.

15. Other Legal Actions

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

16. Validity

- 16.1 The validity of this Integrity Pact shall be from date of its signing and extend up to 30 years or the complete execution of the contract to the satisfaction of both the Concessioneing Authority and the Concessionaire, whichever is later.



16.2 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.

17. The Parties hereby sign this Integrity Pact at Visakhapatnam on July 31, 2010.

CONCESSIONING AUTHORITY

CHAIRMAN

VISAKHAPATNAM PORT

VISAKHAPATNAM

Fax No: +91-891-2565023

Email: info@vizagport.com

CONCESSIONAIRE

M/s. West Quay Multiport Pvt. Ltd.,
5th Floor, Bhupati Chambers, 13 Mathew Road,
Mumbai - 400 004

Fax No. 022-2368 3165

Email: ho@abg-lda.com

Witness

1. Sushanta De
SUSHANTA DEY
(31.07.2010)

2. Samir Senapati
Samir Senapati

Witness

1. S. Lakshminarayana
(S. LAKSHMINARAYANA)
31/7/2010

2. A. Venk Prasad
(A. VENK PRASAD)
31/7/2010

For West Quay Multiport Pvt. Ltd.

Authorised Signatory

Dy. Chairman / उपाध्यक्ष
विशाखपट्टणम पोर्ट ट्रस्ट
Visakhapatnam Port Trust

APPENDIX – I
Letter comprising the Bid
(Refer Clauses 2.1.5 and 2.14 of the RFP)

Dated: 03.12.2009

The Chief Engineer,
Visakhapatnam Port Trust,
Visakhapatnam – 530 035

Sub: Bid for development of Western Quay (WQ-6) berth in the Northern Arm of Inner harbour of Visakhapatnam port for handling dry bulk cargo Project on DBFOT basis

Dear Sir,

1. With reference to your RFP document dated 11.08.2009, we, having examined the Bidding Documents and understood their contents, hereby submit our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. All information provided in the Bid and in the Appendices is true and correct.
3. This statement is made for the express purpose of qualifying as a Bidder for the project "Development of Western Quay (WQ-6) berth in the Northern Arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis.
4. We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and we hereby waive our right to challenge the same on any account whatsoever.
6. We certify that in the last three years, we have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. We declare that:
 - (a) We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority.
 - (b) We do not have any conflict of interest in accordance with Clauses 2.1.14 and

2.1.15 of the RFP document;

- (c) We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.6 of the RFP document.
9. We believe that we satisfy the Net Worth criteria and meet the requirements as specified in the RFQ document and are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the Government vide Department of Disinvestment OM No. 6/4/2001 – DD-II dated 13th July, 2001 which guidelines apply mutatis mutandis to the Bidding Process.
10. We declare that we are not a Member of a/any other Consortium submitting a Bid for the Project.
11. We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or have adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
13. We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors / Managers / employees.
14. We further certify that we are qualified in terms of additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated July 13, 2001, a copy of which forms part of the RFP at Appendix-V thereof.
15. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.
16. We acknowledge that our Consortium / proposed Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who will own at least 26% of the equity of the Concessionaire and undertake that each of such Consortium Members shall continue to hold at least 26% of the equity of the Concessionaire until the Commercial Operation Date of the Project is achieved under and in accordance with the provisions of the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.
17. We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and / or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, we shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.



18. We understand that the Selected Bidder shall either be an existing Company incorporated ~~under the Indian Companies Act, 1956~~, or shall incorporate itself as such prior to execution of the Concession Agreement.
19. We hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
20. In the event of our being declared as the Selected Bidder, We agree to enter into a Concession Agreement in accordance with the draft that has been provided to us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
21. We have studied all the Bidding Documents carefully and also surveyed the Project Site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Bidding Process including the award of Concession.
22. The Gross Revenue Share has been quoted by us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the Bid.
23. We offer a Bid Security of Rs.11.45 (Rupees Eleven decimal four five only) million to the Authority in accordance with the RFP Document.
24. The Bid Security in the form of a Demand Draft/ Bank Guarantee is attached.
25. We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to us or our Bid is not opened.



ABG Infralogistics Ltd.
5th Floor, Bhupati Chambers,
13 Mathew Road,
Mumbai – 400 004

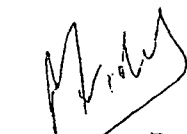
26. We hereby submit our Bid and offer a Gross Revenue Share of **47.17** per cent
(Forty Seven point One Seven in words) for undertaking the aforesaid Project in
accordance with the Bidding Documents and the Concession Agreement.
27. We agree to keep this offer valid for 120 (one hundred and twenty) days from the Bid Due
Date specified in the RFP.
28. We agree and undertake to abide by all the terms and conditions of the RFP document.

In witness thereof, we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date: 03.12.2009

Place: Mumbai



Mridul Muralidharan
Manager



Name and Seal of Bidder
ABG Infralogistics Ltd.





Ref:ICICI/CIBD/BBR/2009-10/BG/0393BG00189209

December 08, 2009

To
VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM,
ANDHRA PRADESH,
INDIA

Sub:-Issuance of Bank Guarantee Amendment

Dear Sir,

Please find attached Bank Guarantee issued by us favoring yourselves on behalf of
ABG Infralogistics Limited.

Details are as under.

Bank Guarantee No. & Date of Issue	Expiry Date	Claim Expiry Date	Amount of Bank Guarantee
0393BG00189209 dated 06-11-2009 Amendment dated 08.12.2009	09.05.2010	09.05.2010	Rs. 1,14,50,000.00

We confirm that the officials who have signed the above bank guarantee are authorized to
such documents on behalf of ICICI Bank Limited. You may verify the genuineness of the guarant~~ee~~
from our bank.

Thanking you,

Yours faithfully,
For ICICI Bank Limited

Authorized Signatory



ICICI Bank Limited
ICICI Bank Centre
163, H. T. Parekh Marg
Backbay Reclamation
Churchgate 400 020

Tel. : (022) 66538700
Fax : (022) 66538855
Website www.icicibank.com

Regd. Office : "Landmark", Race Course
Vadodara 390007.
Corp. Office : ICICI Bank Towers, Bandra
Complex, Mumbai 400051

For IDBI BANK LTD.

Industrial Development Bank of
India Ltd. 10th Court 'A' Wing,
2nd Floor, Nariman Point,
Mumbai-400021.

भारत 36695
140502

SPECIAL
ADHESIVE
महाराष्ट्र
NOV 26 2009

Authorized Signatory, This Form is an Integral Part of
Bank Guarantee

Issued By ICICI Bank Limited R.0000100/-PB5280
INDIA STAMP DUTY MAHARASHTRA

0393 B4-00139209 dt. 06/11/09

Amendment dated 08/11/09

For ICICI BANK LIMITED

Authorized Signatory



ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.



BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)

PG Number: 0393BG00189209

Amendment Date: 08.12.2009

1 To,
2 VISAKHAPATNAM PORT TRUST
3 VISAKHAPATNAM,
4 ANDHRA PRADESH,
5 INDIA

6 Sub : Amendment to Bank Guarantee No 0393BG00189209 Dtd 06-11-2009 for Rs. 1,14,50,000.00

7 At the request of 'ABG Infralogistics Limited'. We hereby amend above mentioned Bank Guarantee
8 as follows:

9 1- Para no 13 ,Line no 94 to 98 at page no 5 stands deleted.

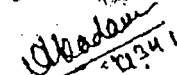
10 All other terms and conditions of the original Bank Guarantee remain unchanged. This letter forms
11 an integral part of the original guarantee referred above and may be kept attached thereto.

12 Place : Mumbai

13 Date : 08.12.2009

14 For ICICI BANK LIMITED:

15 Authorised Signatories

16 Signature : 

Signature :

17 Name :

Name :

18 Signature Code :

Signature Code :

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.



Page 1 of 1

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Regd. Office: "Landmark", Race Course Circle, Vadodra-390 007. Phone : 0265-2339923-25 Fax: 0265-2339926
E-mail: corporatecare@icicibank.com SWIFT : ICICIN BB

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)

Sr. No.

423708

BG Number: 0393BG00189209

Amendment Date: 08.12.2009

- 1 To,
- 2 VISAKHAPATNAM PORT TRUST
- 3 VISAKHAPATNAM,
- 4 ANDHRA PRADESH,
- 5 INDIA
- 6 Sub : Amendment to Bank Guarantee No 0393BG00189209 Dtd 06-11-2009 for Rs. 1,14,50,000.00
- 7 At the request of 'ABG Infralogistics Limited'. We hereby amend above mentioned Bank Guarantee
- 8 as follows:
- 9 1- Para no 13, Line no 94 to 98 at page no 5 stands deleted.

- 10 All other terms and conditions of the original Bank Guarantee remain unchanged. This letter forms
- 11 an integral part of the original guarantee referred above and may be kept attached thereto.

12 Place : Mumbai

13 Date : 08.12.2009

14 For ICICI BANK LIMITED:

15 Authorised Signatories:

16 Signature: Abdullah

17 Name: Abdullah

18 Signature Code: 12345

Signature: Abdullah

Name: Abdullah

Signature Code: 12345

ICICI BANK LIMITED

ICICI CENTRE,

163, H. T. PAREKH MARG,

BACKBAY RECLAMATION,

CHURCHGATE, MUMBAI - 400 020.



Page 1 of 1

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone: 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Regd. Office: "Landmark", Race Course Circle, Vadodara-390 007. Phone: 0265-2339923-25 Fax: 0265-2339926

E-mail: corporatecare@icicibank.com SWIFT: ICICINBB



Ref: ICBK/CIBD/BBR/2009-10/BG/0393BG00189209

December 02, 2009

To
VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM,
ANDHRA PRADESH, INDIA

Sub:-Issuance of Bank Guarantee Amendment

Dear Sir,

Please find attached Bank Guarantee issued by us favouring yourselves on behalf of
'ABG Infralogistics Limited

Details are as under.

Bank Guarantee No. & Date of Issue	Expiry Date	Claim Expiry Date	Amount of Bank Guarantee
0393BG00189209 Dated 06.11.2009 Amendment Date 02.12.2009	03.06.2010	03.06.2010	INR 1,14,50,000.00

We confirm that the officials who have signed the above bank guarantee are authorized to sign such documents on behalf of ICICI Bank Limited. You may verify the genuineness of the guarantee from our bank.

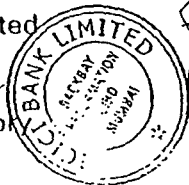
In case of the invocation of the bank guarantee, the original bank guarantee & all subsequent amendments should be submitted at the counters of the branch.

Thanking you,

Yours faithfully,

For ICICI Bank Limited

Authorized Signatory



ICICI Bank Limited
ICICI Bank Center
163, H. T. Parekh Marg
Barkbay Reclamation
Churchgate, Mumbai 400 020

Tel. : (022) 6653 8700
Fax : (022) 6653 8855
Website www.icicibank.com

Regd. Office : "Landmark", Race Course Circle,
Vadodara 390007.
Corp. Office : ICICI Bank Towers, Bandra-Kurla
Complex, Mumbai 400051, India.

For IDBI BANK LTD.

Authorised Signatory

Industrial Development Bank of
India Ltd. Metal Court 'A' Wing,
2nd Floor, Nariman Point,
Mumbai-400021.

D-5/STP(M)/C.R.1007/03/05/1929-1032

This Forms an Integral

Bank Guarantee

Issued By ICICI Bank Limited

भारत 36786

192500



INDIA

SPECIAL
ADHESIVE
NOV. 26 2009

14:06

R.0000100/-PB5200

STAMP DUTY MAHARASHTRA

03938900189209 - Date - 06.11.2009

Amendment Date - 02.12.2009

For ICICI BANK LIMITED

Authorised Signatory

Authorised Signatory

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.



Sr. No. 423593

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



B.G. Number: 0393BG00189209
Amendment Dtd 02.12.2009

- 1 To,
- 2 VISAKHAPATNAM PORT TRUST
- 3 VISAKHAPATNAM, ANDHRA PRADESH, INDIA
- 4 Sub : Amendment to Bank Guarantee No 0393BG00189209 Dtd 06-11-2009 for Rs. 1,14,50,000.00
- 5 At the request of 'ABG Infralogistics Limited'. We hereby amend above mentioned Bank
- 6 Guarantee as follows:
- 7 1. The validity of the bank guarantee is extended up to 03.06.2010.
- 8 All other terms and conditions of the original Bank Guarantee remain unchanged. This letter forms an integral part of the original guarantee referred above and may be kept attached thereto.
10. Notwithstanding anything contained here in above,
- 11 1) Our liability under this Bank guarantee shall not exceed Rs. 1,14,50,000.00 (Rupees One Crore : Fourteen Lacs Fifty Thousand Only)
- 12 2) This Bank Guarantee shall be valid up to 03.06.2010
- 13 3) We shall be liable to pay any amount under this Bank guarantee or part thereof only if we
- 14 receive a written claim or demand under this guarantee on or before 03.06.2010 at ICICI Bank Ltd.
- 15
- 16 Place : Mumbai
- 17 Date : 02.12.2009
- 18 For ICICI BANK LIMITED
- 19 Authorised Signatories
- 20 Signature : [Signature]
- 21 Name : Ashwini Kadan
- 22 Signature Code : 1341
- Signature : [Signature]
- Name : MOHIT MAHAJAN
- Signature Code : 112222

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Page 1 of 1

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2346020, Fax: 0265-2341881.
E-mail: corporatecare@icicibank.com



Regd. Office: "Landmark", Race Course Circle, Vadodra-390 007. Phone : 0265-2339923-25 Fax: 0265-2339926
E-mail: corporatecare@icicibank.com SWIFT : ICIC IN BB

Ref. : ABG/P425/191/2010

Date : January 23, 2010

Secretary & Attorney of the Board

Engineering Department

Visakhapatnam Port Trust

Visakhapatnam 530 035

Andhra Pradesh

Ph : 0891-2535289

Fax : 0891-2535283

E-mail : info@vizagport.com

Sir,

Sub : Development of Western Quay (WQ-6) berth in the Northern Arm of Visakhapatnam Port for handling dry bulk cargo on Build, Operate and Transfer BOT basis – Reg Purchase of Request for Proposal Document.

Ref : 1) ABG's Bid dated 3-12-2009

2) VPT's letter No. IENG/EE(Projects)/WQ-6/2009/391 dated 28-12-2009, and

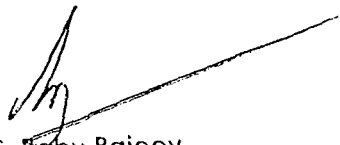
3) ABG's letter Ref. No. ABG/P425/10 dated January 4, 2010.

Enclosed please see a copy of the Letter of Award Ref. No. IENG/EE(Projects)/WQ-6/2010/45 dated 18th January 2010, duly signed.

Thanking you,

Yours faithfully,

For ABG Infralogistics Limited,


C. Babu Rajeev
Chief Executive Officer





BY REGD POST WITH ACK DUE

**VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT**

ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/2010/77
Dt. 4-2-2010.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

✓ FAX NO. +9122-23649236

Sir,

Sub: "Development of Western Quay – 6 (WQ – 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg.

Ref: 1. Your bid Dt. 3-12-2009.
2. Your letter No. ABG/P425/191/2010 Dt. 23-1-2010.

With reference to letter Dt. 23-1-2010 under reference 2nd cited, you are requested to enter in to an agreement with the Concessioneing Authority in connection with the subject Project in terms of RFQ, RFP & DCA documents.

Please acknowledge the receipt of this letter.

Yours faithfully,

Secretary &
Attorney of the Board

Grams: PORT TRUST, FAX : 0891 – 2565023, Phone: 0891 – 2565289, E-mail: ,
Web: www.vizagport.com. Visakhapatnam – 530 035.

Ref. : ABG/P425/204/2010
Date : February 4, 2010

Secretary & Attorney of the Board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530 035
Andhra Pradesh
Ph : 0891-2565289
Fax : 0891-2535023
E-mail : info@vizagport.com

Sir,

Sub : Development of Western Quay (WQ-6) berth in the Northern Arm of Visakhapatnam Port for handling dry bulk cargo on Build, Operate and Transfer BOT basis – Reg Entering into an Agreement with the Concessioneing Authority

Ref : 1) ABG's Bid dated 3-12-2009
2) VPT's letter No. IENG/EE(Projects)/WQ-6/2009/391 dated 28-12-2009, and
3) ABG's letter Ref. No. ABG/P425/191/2010 dated 23rd January 2010.

With reference to the above, we acknowledge receipt of your letter Ref. IENG/EE(Projects)/WQ-6/2010/77 dated 4th February 2010, and have noted its contents.

Thanking you,

Yours faithfully,
For ABG Infralogistics Limited,


Mridul Muralidharan
Manager





Ref. : ABG/P425/213/2010
Date : February 15, 2010

Secretary & Attorney of the Board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530 035
Andhra Pradesh
Ph : 0891-2565289
Fax : 0891-2565023
E-mail : info@vizagport.com

Sir,

Sub: Development of Western Quay (WQ-6) berth in the Northern Arm of
Visakhapatnam Port for handling dry bulk cargo on Build, Operate and Transfer
BOT basis - Reg Entering into an Agreement with the Concessioning Authority

Ref: 1) ABG's Bid dated 3-12-2009
2) VPT's letter No. IENG/EE(Projects)/WQ-6/2009/391 dated 28-12-2009, and
3) ABG's letter Ref. No. ABG/P425/191/2010 dated 23rd January 2010.

Kindly refer to our letter No. ABG/P425/204/2010 dated February 4, 2010.

It is requested that a copy of the proforma of the Agreement to be entered into with the
Concessioning Authority in connection with the subject project may kindly be forwarded
to us.

Thanking you.

Yours faithfully,
For ABG Infralogistics Limited,

C. Babu Rajeev
Chief Executive Officer

ABG Infralogistics Limited

5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004, INDIA

Tel : +91-22-6656 3000 • Fax: +91-22-2364 9236

Email: hq@abginfra.com

Ref: ABG/P425/215/2010

Date: February 17, 2010

Secretary & Attorney of the Board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530 035.AP

Sub: "Development of Western Quay (WQ-6) berth in the northern arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis" – Reg.


Ref: Your letter No IENG/EE (Projects)/WQ-6/2010/45 dated 18-1-2010



Dear Sir,

Please refer to your letter cited above wherein it has been stated that "A detailed order along with the draft concession agreement to be entered as per relevant clauses of RFQ, RFP & DCA documents and other terms and conditions will be issued separately". We have not yet received any order in this regard.

As requested in your letter, we have already returned duplicate copy of the Letter of Award, duly signed in acknowledgement thereof.

Thanking you,
Yours sincerely,
For ABG Infralogistics Limited,


C. Babu Rajeev
CEO



19/2/10
प्रति क्लर्क
RECEIPT CLERK
सामान्य प्रशासनिक विभाग
General Administration Department
विशखapatnam पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

Ref: ABG/P425/231/ 2010

Date: February 26, 2010

Secretary & Attorney of the Board

Engineering Department

Visakhapatnam Port Trust

Visakhapatnam 530035. AP

Sub: "Development of Western Quay (WQ-6) berth in the northern arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis - Reg"

Dear Sir,

Please refer to our letter reference ABG/P425/ 215/2010 dated 17th Feb'2010.

1. We are yet to receive the detailed order along with the draft Concession Agreement to be entered as per relevant clauses of RFQ, RFP & DCA documents and other terms and conditions which was to be issued by VPT separately. Kindly expedite the same.
2. In accordance with the clause 2.2.6 of the RFQ, clause 11.1 of the Concession Agreement and various other provision of the same, it is required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956 (the SPV), to execute the Concession Agreement and implement the Project. Accordingly, we are pleased to confirm that the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) has approved the name of the SPV as "West Quay Multiport Private Limited".
3. Clause 11.2 (Article 11) of the Concession Agreement, reads as under :

Shareholding

The Concessionaire shall ensure that the Applicant / members of the Consortium maintain Management Control at least until expiry of the Exclusivity Period 30 as also maintain their equity holding in the Concessionaire such that:

- a) The Applicant / members of the Consortium legally and beneficially hold not less than 51% (fifty one percent) of its paid up equity capital until 3 (three) years after Date of Commercial Operations and not less than 26% (twenty six percent) of its paid up equity capital during the balance Concession Period; and
- b) M/s West Quay Multiport Private Limited legally and beneficially holds at any time not less than 26% (twenty six percent) of the Consortium's holding in the paid up equity capital of the Concessionaire.

Notwithstanding the aforesaid, any Transfer of shareholding in the Concessionaire and / or direct or indirect change in the Management Control of the Concessionaire, including by way of a restricting or amalgamation, shall only be with the prior written approval of the Concessioneing Authority which consent shall not be withheld except (i) for reasons of national security; or (ii) if the Person proposed for assuming such Management Control would by virtue of the restrictions imposed under the

ENCL AD No.: 17

DATE

14.12.09

विशाखपट्टणम पोतन त्रुस्ट / अमियंता विभाग
VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT

OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pl. IX / 34
Dt. 8-12- 2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Evaluation of price proposals as per evaluation criteria in accordance with RFP guidelines for development of WQ-6 berth at Port of Visakhapatnam on DBFOT basis - Reg

Ref: Your tender dt. 4-12-2009.

Please refer to your tender dt. 4-12-2009.

Upon review of the submissions furnished by you, the following need to be corrected:

1) Review of Letter Comprising the Bid (Appendix I):

S. No	Bidder Name	Observation	Remarks
1.	M/s ABG Infralogistics Ltd, Mumbai	Para 26 mentions "Gross Revenue Share in the form of" instead of "Gross Revenue Share of"	M/s ABG has used the format provided in the Model RFP issued in Nov. 2007 which mentions "offer a Premium in the form of _ percent of the gross revenues of the project" instead of "Gross Revenue Share of _ percent" as per RFP floated by VPT. <u>clarification is sought from the Bidder and he is required to resubmit Appendix I.</u>

2) Review of Bid Security(Appendix II):

S.No.	Bidder Name	Observation	Remarks
1.	M/s ABG Infralogistics Ltd, Mumbai	<u>Additional Paragraph 13</u> has been added by Bank issuing Bank Guarantee "notwithstanding anything stated above, our liability under this guarantee shall be restricted to Rs 11.45 million(Rupees Eleven decimal four five million only) and our guarantee shall remain in force up to 9th May,2010 and unless a demand or claim under the guarantee is made on us in writing on or before the 09th May,2010 all your rights under the guarantee shall be forfeited and we shall be relieved and discharged from all liabilities there under".	Clarification is sought from the Bidder and he is required to resubmit Appendix III as per the format prescribed in RFP.

This may please be treated as MOST URGENT

Yours faithfully,

CHIEF ENGINEER

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

Lr. No. IENG/EE (Projects)/WQ-6/2009/ 391
Dt. 28-12-2009.

To
M/s ABG Infralogistics Ltd.,
5th Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai - 400 004.

Fax No. +91-22-2364 9236

Sir,

Sub: "Development of Western Quay-6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" - Reg.

Ref: Your bid Dt. 3-12-2009.

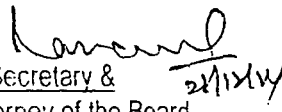
Your bid for the subject DBFOT Project, i.e., "Development of Western Quay-6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis", submitted vide your bid cited, has been accepted by VPT Board.


You are requested to treat this letter as the "Letter of Award (LOA)". A detailed order along with draft concession agreement to be entered into between Visakhapatnam Port Trust and M/s ABG Infralogistics Ltd., and other terms and conditions will be issued separately.


In this regard, in terms of the clause 3.3.5 of RFP document, a duplicate copy of this LOA, which is enclosed, shall be returned duly signed within 7 days of the receipt of LOA in acknowledgement thereof.

Encl: As above

Yours faithfully,


Secretary &
Attorney of the Board


ABG INFRALOGISTICS LTD.


AUTHORISED SIGNATORY

Ref.No. ABG/P425/10

Date: January 4, 2010

The Secretary & Attorney of the Board
Visakhapatnam Port Trust
Engineering department
Visakhapatnam 530 035.AP

Dear Sir,

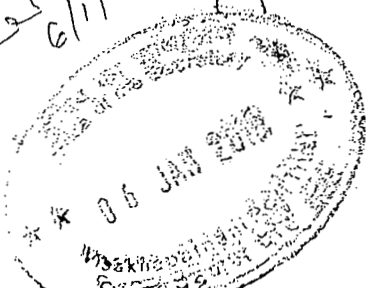
Sub: Development of Western Quay (WQ-6) berth in the northern arm of inner harbour of
Visakhapatnam Port for handling dry bulk cargo on build, operate and transfer (BOT) basis-
Letter of Award

Please refer to your letter No IENG/EE (Projects) /WQ-6/2009/391 dated 28-12-2009. The second paragraph of your letter refers to the draft concession agreement to be entered into between Visakhapatnam Port Trust and M/s ABG Infralogistics Ltd.

Kindly note as per Clause 2.2.6 of the RFQ, clause 11.1 of the Concession Agreement and various other provisions of the same, it is required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956 (the SPV), to execute the concession Agreement and implement the Project. In view of this, it is requested that the contents of the letter dated 28-12-2009 may be appropriately modified and two copies sent to us. On receipt of the same, we can return one signed copy in acknowledgement.

Thanking you,
Yours sincerely,
For ABG Infralogistics Ltd

C Babu Rajeev
CEO



BY REGISTERED POST WITH ACK DUE

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/2010/45
Dt. 18-1-2010.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. +9122-23649236

Sir,

Sub: "Development of Western Quay - 6 (WQ - 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" - Reg.

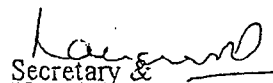
- Ref: 1. Your bid Dt. 3-12-2009.
2. VPT's letter Dt. 28-12-2009
3. Your letter No. ABG/P425 Dt. 4-1-2010



Your bid for the subject DBFOT Project ie., Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" submitted vide your bid cited has been accepted by VPT Board.

You are requested to treat this letter as the "letter of Award (LOA)". A detailed order along with draft concession agreement to be entered as per the relevant clauses of RFQ, RFP & DCA documents and other terms and conditions will be issued separately.

In this regard, in terms of the clause 3.3.5 of RFP document, a duplicate copy of this LOA which is enclosed, shall be returned duly signed with in 7 days of the receipt of LOA in acknowledge thereof.

Yours faithfully,


Secretary &
Attorney of the Board



Grams: PORT TRUST, FAX : 0891 - 2565023, Phone: 0891 - 2565289, E-mail: ,
Web: www.vizagport.com. Visakhapatnam - 530 035. (A rt.com) We info@vizagpo

Ref: ABG/P425/231/ 2010

Date: February 26, 2010

Secretary & Attorney of the Board

Engineering Department

Visakhapatnam Port Trust

Visakhapatnam 530035. AP

Sub: "Development of Western Quay (WQ-6) berth in the northern arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis - Reg"

Dear Sir,

Please refer to our letter reference ABG/P425/ 215/2010 dated 17th Feb'2010.

1. We are yet to receive the detailed order along with the draft Concession Agreement to be entered as per relevant clauses of RFQ, RFP & DCA documents and other terms and conditions which was to be issued by VPT separately. Kindly expedite the same.
2. In accordance with the clause 2.2.6 of the RFQ, clause 11.1 of the Concession Agreement and various other provision of the same, it is required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956 (the SPV), to execute the Concession Agreement and implement the Project. Accordingly, we are pleased to confirm that the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) has approved the name of the SPV as "West Quay Multiport Private Limited".
3. Clause 11.2 (Article 11) of the Concession Agreement, reads as under :

Shareholding

The Concessionaire shall ensure that the Applicant / members of the Consortium maintain Management Control at least until expiry of the Exclusivity Period 30 as also maintain their equity holding in the Concessionaire such that:

- a) *The Applicant / members of the Consortium legally and beneficially hold not less than 51% (fifty one percent) of its paid up equity capital until 3 (three) years after Date of Commercial Operations and not less than 26% (twenty six percent) of its paid up equity capital during the balance Concession Period; and*
- b) *M/s West Quay Multiport Private Limited legally and beneficially holds at any time not less than 26% (twenty six percent) of the Consortium's holding in the paid up equity capital of the Concessionaire.*

Notwithstanding the aforesaid, any Transfer of shareholding in the Concessionaire and / or direct or indirect change in the Management Control of the Concessionaire, including by way of a restricting or amalgamation, shall only be with the prior written approval of the Concessioneing Authority which consent shall not be withheld except (i) for reasons of national security; or (ii) if the Person proposed for assuming such Management Control would by virtue of the restrictions imposed under the

Applicable Law or the conditions of bidding (including restrictions to avoid anti-competitive and monopolistic practice) and/or public policy be disqualified from undertaking the Project.

~~Provided, nothing contained in this Article shall preclude or prevent pledge of shares in the Concessionaire in favour of Lenders as security for the Financial Assistance subject to the enforcement and consequent Transfer thereof only with the prior written consent of the Concessioneing Authority as stated hereinbefore and in accordance with the Financing Documents.~~

Therefore in compliance with the above, the initial paid up equity capital (Share Holding) of the SPV (M/s West Quay Multiport Private Limited) shall be as below :

- ABG Infralogistics Ltd 51%
- ABG-LDA Bulk Handling Pvt. Ltd.* 49%

* ABG-LDA Bulk Handling Pvt. Ltd is a subsidiary of ABG Infralogistics Ltd

Furthermore, in compliance with clause 11.2 (a) of the Concession Agreement, it is proposed that the paid up equity capital of M/s ABG Infralogistics Ltd in the SPV (M/s West Quay Multiport Private Limited) shall be not less than 26% after 3 years from the date of commercial operations and that M/s ABG Infralogistics Ltd shall hold at any time not less than 26% of the paid up equity capital of the SPV (M/s West Quay Multiport Private Limited).

We trust that the above is in compliance with the provisions of the RFQ, RFP & Concession Agreement and the same meets with your kind concurrence.

4. We are separately forwarding to you draft version of the Memorandum and Articles of Association of the SPV (M/s West Quay Multiport Private Limited) for your perusal and approval.

Yours Sincerely,
For ABG Infralogistics Ltd

C. Babu Rajeev
CEO

ABG Infralogistics Limited

5th floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004, INDIA
Tel.: +91-22-6656 3000 • Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref. : ABG/P425/237/2010
Date : March 4, 2010

Secretary & Attorney of the Board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530 035
Andhra Pradesh
Ph : 0891-2565289
Fax : 0891-2535023
E-mail : info@vizagport.com

Sir,

Sub : Corrigendum to our letter Ref.No. ABG/P425/231/2010 dated February 26, 2010. :
- Development of Western Quay (WQ-6) berth in the Northern Arm of
Visakhapatnam Port for handling dry bulk cargo in Design, Build, Finance,
Operate and Transfer (DBFOT) basis

Kindly refer to our above cited letter No. ABG/P425/231/2010 dated February 26, 2010.

We draw your attention to paragraph No. 3 "Shareholding", sub-para (b) and request you to kindly correct sub-para (b) amending the name of the Company to read as "ABG Infralogistics Limited" in place of "M/s. West Quay Multiport Private Limited." The corrected version will read as below :

"3. b) **ABG Infralogistics Limited** legally and beneficially holds, at any time, not less than 26% (twenty-six percent) of the Consortium's holding in the paid-up equity capital of the Concessionaire."


Please make a note of the above amendment and incorporate the same in your records.

We regret the mistake.

Thanking you,

Yours faithfully,
For ABG Infralogistics Limited,

C. Babu Rajeev
Chief Executive Officer



ABG Infralogistics Limited

5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004. INDIA

Tel: +91-22-6656 3000 • Fax: +91-22-2364 9236

Email: hq@abginfra.com

Ref. : ABG/P425/239/2010

Date : 5th March 2010

Secretary & Attorney of the Board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530 035
Andhra Pradesh
Ph : 0891-2565289
Fax : 0891-2535023
E-mail : info@vizagport.com

Sir,

Sub: Development of Western Quay (WQ-6) berth in the Northern Arm of Visakhapatnam Port for handling dry bulk cargo in Design, Build, Finance, Operate and Transfer (DBFOT) basis

Kindly refer to our above cited letters No. ABG/P425/237/2010 dated March 4, 2010 and No. ABG/P425/231/2010 dated February 26, 2010.


As cited in the above mentioned letters, we are yet to receive the detailed order along with the draft Concession Agreement to be entered as per relevant clauses of RFQ, RFP & DCA documents and other terms and conditions which was to be issued by VPT separately.

We would also request your early concurrence to the proposed shareholding of the SPV, **West Quay Multiport Private Limited**, on receipt of which we would be finalizing and forwarding the Memorandum and Articles of Association for the said SPV.

Thanking you,

Yours faithfully,
For ABG Infralogistics Limited,

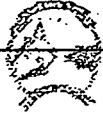

C. Babu Rajeev
Chief Executive Officer



BY REGD POST WITH ACK DUE

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT

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ISO 14000 PORT
OHSAS 18001 PORT



No. IENG/EE(Projects)/WQ-6/2010/126
Dt. 6-3-2010.

From:
The Secretary & Attorney of the Board,
Visakhapatnam Port Trust
VISAKHAPATNAM - 530 035.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay - 6 (WQ - 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" - Reg

- Ref: 1. This office letter of Award (LOA) No. IENG/EE(Projects)/WQ-6/2010/45
Dt. 18-1-2010.
2. M/s. ABG Infralogistics Limited, Mumbai, letter No. ABG/P425/191/2010
Dt. 23-1-2010.
3. M/s. ABG Infralogistics Limited, Mumbai, letter No. ABG/P425/231/2010
Dt. 26-2-2010.

With reference to the above subject in acknowledgement to the Letter of Award (LOA) issued on 18-1-2010 vide reference 1st cited, for the subject Project, it is required to sign the Concession Agreement between the Concessionaire M/s. ABG Infralogistics Limited, Mumbai and Concessioneing Authority, M/s. Visakhapatnam Port within 30 days of the issue of Letter of Award.

In view of your letter (under reference 3rd cited) dt. 26-2-2010 received in this office on 3-3-2010, it is understood that M/s. ABG Infralogistics Limited, Mumbai has formed an appropriate Special Purpose Vehicle (SPV) as "West Quay Multipurpose Private Limited, in accordance with the relevant clauses of the RFQ, RFP and Concession Agreement, the details of the above said SPV are yet to be received by VPT for approval please.

In this regard, please find enclosed a copy of the Draft Concession Agreement to be entered as per relevant clauses of RFP, DCA documents for further necessary action at your end.

The date and time of signing of Concession Agreement will be informed separately please.

You have to enter into an Agreement (Concession Agreement) on non-judicial stamp paper worth Rs.100/- and on conquest bond paper.

This letter, your tender Dt. 4-12-2009, Draft Concession Agreement (DCA) to be entered in to with the Concessioneing Authority in connection with the subject Project inclusive of the RFP documents and connected corrigendums and correspondence exchanged with you in this regard shall form part of the agreement.

It is hereby informed that from the date of signing of the Concession Agreement that the Conditions Precedent as prescribed in Article - 3 of Concession Agreement are to be complied within a period of 90 (ninety) days as per Clause 3.2 of Concession Agreement.

Upon satisfactory compliance of the Conditions Precedent as per the Concession Agreement, the concession will be granted for a period of 30 years commencing from the date of Award of concession as per the clause and articles of Concession Agreement.

For any clarifications with reference to the concession, it is informed that the Concessionaire and the Concessioneing Authority will abide by the interpretations as specified in the clause of 1.3 of Concession Agreement.

This is for information and immediate response.

Encl: As above.

Yours faithfully,


SECRETARY &
ATTORNEY OF THE BOARD

Copy to: CE/FA&CAO/DC/CME/DIRECTOR (R&P)/RAO/VPT





5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004. INDIA
Tel : +91-22-6656 3000 • Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABG/P425/243/2010
Date: March 15, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

Sir,

Sub: "Development of Western Quay-6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg

Ref: 1. IENG/EE (Projects)/WQ-6/2010/126, Dated 06-03-2010.
2. IENG/EE (Projects)/WQ-6/2010/138, Dated 10-03-2010.

In Para 2 of your letter IENG/EE (Projects)/WQ-6/2010/126 dated 06-03-2010 and in your letter IENG/EE (Projects)/WQ-6/2010/138 dated 10-03-2010, you have sought details of the said SPV (M/s West Quay Multiport Pvt. Ltd.) for your approval. Accordingly, we are pleased to enclose herewith a draft copy of the Memorandum & Articles of Association of M/s West Quay Multiport Pvt. Ltd. for your approval. In accordance with clause 11.3 of the draft concession Agreement, the Articles of Association of M/s West Quay Multiport Pvt. Ltd. reflect the relevant commitments, obligations and responsibilities of the Applicant. Furthermore the draft MOA & AOA of M/s West Quay Multiport Pvt. Ltd. includes the terms & conditions regarding the composition of share-holding and management stipulated in the draft Concession Agreement; and terms and conditions related to changes in the share-holding pattern stipulated in the Draft Concession Agreement.

We request you to kindly grant us your approval to the attached Draft MOA & AOA at the earliest in order that we can proceed with the necessary steps to incorporate the said SPV (M/s West Quay Multiport Pvt. Ltd.) and upon incorporation, the SPV shall enter into the Concession Agreement with VPT.

Please note that the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) granted approval of the name of the SPV (M/s West Quay Multiport Pvt. Ltd.) on 25th Feb'10 and the said name approval is valid for period of 60 days after which we would need to seek fresh approval.

Yours Sincerely
For ABG Infralogistics Ltd

C. Babu Rajeev
CEO

5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004. INDIA

Tel: +91-22-6656 3000 • Fax: +91-22-2364 9236

Email: hq@abginfra.com

OUTWARD No.:	1
DATE	: 24/3/10

Ref: ABG/P425/252/2010

Date: March 24, 2010

To,
The Executive Engineer,
Visakhapatnam Port Trust,
Visakhapatnam – 530 035
Andhra Pradesh, India.

Dear Sir,

Sub: "Development of Western Quay (WQ-6) berth in the northern arm of inner harbor of Visakhapatnam Port for handling dry bulk cargo on Design, Build, Finance, Operate and Transfer basis".

Kindly refer to your letter No. IENG/EE(Projects)/WQ-6/Vol-10 dated March 23, 2010.

As cited In the above mentioned letter, we are enclosing herewith copies of the Memorandum of Association (MOA) and Articles of Association (AOA) in respect of (1) ABG Infralogistics Limited and (2) ABG-LDA Bulk Handling Pvt. Ltd.

We trust having complied with all your requirements.

Thanking You.

Yours Sincerely,
For **ABG Infralogistics Ltd.**



C. Babu Rajeev
Chief Executive Officer



MOST URGENT

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



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OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-10 / 16.c
Dt. 25-3-2010.

To
✓ M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay – 6 (WQ – 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DEFOT basis" –
Reg.

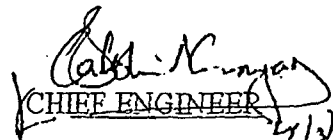
Ref: M/s. ABG Infralogistics Limited, Mumbai, letter No. ABG/P425/243/2010
Dt. 15-3-2010

Please refer to your letter cited.

It is requested to arrange to furnish a copy of Memorandum of Association (MOA) and Articles of Association (AOA) of the firms (1) ABG Infralogistics Limited and (2) ABG – LDA Bulk Handling Pvt Ltd., so as to enable take necessary further action in this regard. This is required in connection with the scrutiny of documents pertaining to the SPV (M/s. West Quay Multiport Private Limited).

THIS MAY PLEASE BE TREATED AS MOST URGENT.

Yours faithfully,


(CHIEF ENGINEER) 24/3/10



Grams: PORT TRUST, FAX : 0891 – 2565023, Phone: 0891 – 2565289, E-mail: ,
Web: www.vizagport.com. Visakhapatnam – 530 035.





VIKAPNAM PORT TRUST/ENGINEERING DEPARTMENT

ISO 9001 PORT
ISO14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/20/
Dt. 19-4-2010.

✓ To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO: +9122-23649236

Dear Sir,

Sub: "Development of Western Quay - 6 (WQ - 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" - Reg.

Ref: M/s. ABG Infralogistics Limited, Mumbai, letter No. ABG/P425/243/2010
Dt. 15-3-2010

Please refer to your letter cited.

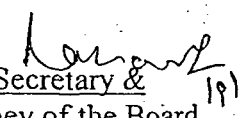
The draft Memorandum of Association (MOA) and Articles of Association (AOA) of West Quay Multiport Private Ltd., submitted vide your letter cited is verified and found to be in order.

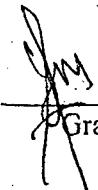
With regard to scope of the intended project is concerned, it is to inform that the same is specially detailed under the definition "Concession Agreement" in the draft Articles of Association at Page (2), whereas, in the objects of the West Quay Multiport Pvt Ltd., which are detailed at Para III at page 1 of the draft Memorandum of Association, the scope of the Project is not mentioned in detail as mentioned in RFP and RFQ documents at 1.1.3 of page 2 of the respective documents.

Hence, the scope of the intended Project may please be incorporated at Para III at page 1 of the draft Memorandum of Association and take necessary steps for registration of SPV and enter into the Concession Agreement with VPT.

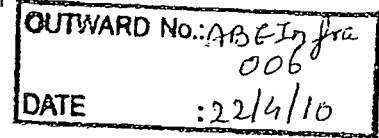
THIS MAY PLEASE BE TREATED AS MOST URGENT.

Yours faithfully,


Secretary &
Attorney of the Board


Grams: PORT TRUST, FAX : 0891 - 2565023, Phone: 0891 -2565289, E-mail: ,
Web: www.vizagport.com. Visakhapatnam - 530 035.

5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004. INDIA
Tel: +91-22-6656 3000 • Fax: +91-22-2364 9236
Email: hq@abginfra.com



Ref: ABGINFRA/P/2007/05/006/2010
Date: April 22, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg

Ref: IENG/EE (Projects)/WQ-6/Vol XI/201,Dated 19-04-2010.

Reference is invited to the above mentioned letter.

As desired by you, we shall incorporate the scope of the Project as mentioned in clause 1.1.3 of the RFP and RFQ documents and subsequent clarifications issued by VPT in the Memorandum of Association. The revised Para III, Part A will read as below:

III. The objects for which the Company is established are:

A. THE MAIN OBJECTS OF THE COMPANY TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION ARE:

1. Broadly include development of WQ-6 berth for handling any dry bulk cargo/break bulk cargo (including Project cargo, Cars CKD sot the likes etc.) except containers and export Alumina. The major components of works are indicated below :

- Plan, design and construct 215m length of berth (in addition to the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of vessels up to 195m LOA, 32.2m Beam and 12.5m draft. Vessels upto 205m LOA can be accommodated subject to certain limitations. The berth shall be designed to cater upto 205m LOA vessels and for a dredge depth of (-) 14.0m.
- Carry out capital dredging and maintenance dredging upto 50.0 M from the face of the berth to (-)14m CD from the present ground level / soundings.
- Procure and install suitable handling equipment at the berth and develop stacking area on about 12.2 acres of land, (at a distance of 3 km from the proposed berth) to be made available on long-term lease for the concession period of 30 years.

A handwritten signature in black ink, appearing to be "Jm".

A handwritten signature in black ink, appearing to be "G".

5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai 400 004. INDIA
Tel : +91-22-6656 3000 • Fax: +91-22-2364 9236
Email: hq@abginfra.com

- Develop back up area (extent of backup area available immediately behing the berth is approx. 10,000 m²) water supply, area illumination, fire fighting, railway and road facilities required including development of the land.
 - Provide mechanical equipment to meet the performance standards that are indicated in the concession agreement. The concessionaire shall have the choice to select and deploy suitable equipment and their own labour for handling various operations within the premises of concessionaire both at the stacking area and the Berth area, as per provisions of the Concession Agreement.
 - Develop utilities and services such as communication, office accommodation, etc required for operation of the berth.
 - Compliance with environmental laws during implementation i.e. construction, operation and maintenance.
 - Planning, design, construction, operation and maintenance of all development works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant International Standards shall be complied with. Safety precautions, as per statutory requirements, shall also be complied with. The concessionaire shall ensure compliance to Quality, Environmental, Occupational Health and Safety and ISPS Codes.
 - Planning, design and engineering of the project shall confirm to technical specifications/preliminary design criteria and standards pre-determined by the Authority and as set out in the Concession Agreement to be entered into between the Concessionaire and the Authority.
 - Operation and maintenance thereof.
2. To undertake and carry on business in India and abroad of procuring, handling, transporting, maintaining and managing of materials, facilities and personnel and to hire, purchase, sell, mortgage, alienate and otherwise deal in ports, inland container depots, container freight stations, warehouses, ships, barges, boats and vessels, lorries, cranes, tractors, aeroplanes, material handling equipments and other machinery goods.

We request you to approve the above at the earliest. Upon receipt of your approval, we will submit the draft Memorandum of Association (MOA) and Articles of Association (AOA) of West Quay Multiport Pvt. Ltd. to the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) for their approval and incorporation of the Company.

Relevant portions of the clarifications issued by VPT pertaining to the scope of the project have been highlighted in the attached document.

We look forward to an early response from your end.

Yours Sincerely

For ABG Infralogistics Ltd

Mr. C. Babu Rajeev
(CEO)

RECEIPT CLERK
समन्वय प्रशासनिक विभाग
General Administration Department
विशाखपट्टणम पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/210
Dt. 24-4-2010.

To
✓
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. +9122-23649236

Dear Sir,

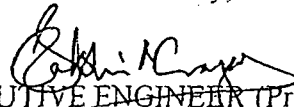
Sub: "Development of Western Quay – 6 (WQ – 6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on
DBFOT basis" – Reg.

Ref: Discussions had with M/s. ABG Infralogistics Ltd. officials by EE(Projects)
on 23-4-2010.

Please recall the discussions had with your officials by the undersigned on 23-4-
2010 on the subject Project with regard to deviations in the scope of work and for
rectification of the same and to submit the corrected copy of scope of work as discussed.

Please treat this matter as MOST URGENT and arrange to submit the corrected
copy of scope of work on priority to enable this office to take necessary further action.

Yours faithfully,


EXECUTIVE ENGINEER (Projects)
24/4/10

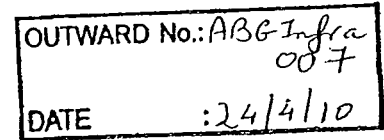
Copy to: CE / VPT for favour of information please.

Copy to: DCE – II for favour of information please.

Copy to: AE(Projects) III for information and necessary action.

5th Floor, Bhupati Chambers,
13 Mathew Road,
Mumbai 400 004. INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2007/05/007/2010
Date: April 24, 2010



Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg

Ref: IENG/EE (Projects)/WQ-6/Vol XI/210, Dated 24-04-2010.

Reference is invited to the above mentioned letter and our meeting in your office on 23-04-2010.

As desired by you, we shall incorporate the scope of the Project as mentioned in clause 1.1.3 of the RFP and RFQ documents and subsequent clarifications issued by VPT in the Memorandum of Association. Pursuant to our meeting, we have further amended the scope of the Project. The revised Para III, Part A will read as below:

IV. The objects for which the Company is established are:

B. THE MAIN OBJECTS OF THE COMPANY TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION ARE:

1. Broadly include development of WQ-6 berth for handling any dry bulk cargo/break bulk cargo (including Project cargo, Cars CKD sot the likes etc.) except containers and export Alumina. The major components of works are indicated below :

- Plan, design and construct 215m length of berth (in addition to the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of vessels up to 195m LOA, 32.2m Beam and 12.5m draft. Vessels upto 205m LOA can be accommodated subject to certain limitations. The berth shall be designed to cater upto 205m LOA vessels and for a dredge depth of (-) 14.0m.
- Carry out capital dredging as per the provisions of the Concession Agreement and maintenance dredging upto 50.0 M from the face of the berth to (-) 14m CD from the present ground level / soundings.
- Procure and install suitable handling equipment at the berth and develop stacking area on about 12.2 acres of land, (at a distance of 3 km from the proposed berth) to be made available on long-term lease for the concession period of 30 years.

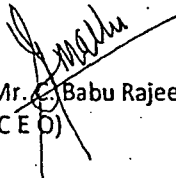
ABG Infra, Shoppe Chambers,
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com


- Develop back up area, water supply, area illumination, fire fighting, railway and road facilities required including development of the land.
 - Provide mechanical equipment to meet the performance standards that are indicated in the concession agreement. The concessionaire shall have the choice to select and deploy suitable equipment and their own labour for handling various operations within the premises of concessionaire both at the stacking area and the Berth area, as per provisions of the Concession Agreement.
 - Develop utilities and services such as communication, office accommodation, etc required for operation of the berth.
 - Compliance with environmental laws during implementation i.e. construction, operation and maintenance.
 - Planning, design, construction, operation and maintenance of all development works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant International Standards shall be complied with. Safety precautions, as per statutory requirements, shall also be complied with. The concessionaire shall ensure compliance to Quality, Environmental, Occupational Health and Safety and ISPS Codes.
 - Planning, design and engineering of the project shall confirm to technical specifications/preliminary design criteria and standards pre-determined by the Authority and as set out in the Concession Agreement to be entered into between the Concessionaire and the Authority.
 - Operation and maintenance thereof.
2. To undertake and carry on business in India and abroad of procuring, handling, transporting, maintaining and managing of materials, facilities and personnel and to hire, purchase, sell, mortgage, alienate and otherwise deal in ports, inland container depots, container freight stations, warehouses, ships, barges, boats and vessels, lorries, cranes, tractors, aeroplanes, material handling equipments and other machinery goods as per the provision of the Concession Agreement.

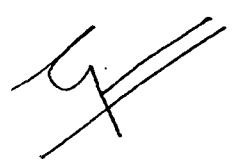
Trust the above is in order and we request you to approve the same at the earliest. Upon receipt of your approval, we will submit the draft Memorandum of Association (MOA) and Articles of Association (AOA) of West Quay Multiport Pvt. Ltd. to the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) for their approval and incorporation of the Company.

We look forward to an early response from your end.

Yours Sincerely
For ABG Infralogistics Ltd

for 
Mr. C. Babu Rajeev
(CEO)





VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO14001 PORT
OHSAS 18001 PORT
No. IENG/EE(Projects)/WQ-6/Vol-XI | 228
Dt. 8-5-2010.

To

✓ M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD No. : ABG Infralogistics
026
DATE : 12/5/10

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay – 6 (WQ – 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg.

Ref: Your amended BG No.0393BG00189209 Dt. 2-12-2009.

The amended BG No. 0393BG00189209 Dt. 2-12-2009 for Rs. 1,14,50,000/- submitted by you vide letter No. ICBK/CIBD/BBR/2009-10/BG/0393BG00189209 Dt. 2-12-2009 on behalf of ABG Infralogistics Limited in connection with the subject Project will be expired by 3-6-2010.


Therefore, it is requested to arrange to extend the validity of the said BG for a period of six months from 3-06-10.

Top priority may please be given to this issue.

Yours faithfully,


CHIEF ENGINEER

BY REGD POST WITH ACK DU

 Copy to: ICICI BANK LIMITED, ICICI CENTRE, 163,11, T. PAREKH MARG, BACKBAY RECLAMATION, CHURCHGATE, MUMBAI – 400 020 for information and it is requested to arrange to remit the proceeds to FA&CAO/VP immediately, if the firm, M/s. ABG Infralogistics Limited, does not extend the validity of the above BG for a further period as requested above.
PLEASE TREAT THIS AS OUR VALID CLAIM.

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

ABG Infralogistics Limited

5th Floor, Bhupali Chambers, 12 Mathew Road, Mumbai 400 004, INDIA.
Tel: +91-22-6656 3000 • Fax: +91-22-2354 9236
Email: info@abginfra.com

Ref : ABG/VPT/WQ-6/PO1
Date : 12th May 2010

INWARD No. : ABG Infra
027
DATE : 12/5/10

To
Chief Engineer
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam - 530035
Andhra Pradesh

Attention: Mr. Laxmi Narayan

Dear Sirs,

Sub: Development of Western Quay - 6 (WQ- 6) Berth in the Northern arm of Inner Harbour
of Vishakhapatnam Port for handling of dry bulk cargo on DBFOT basis.

Ref: Amendment of BG no. 039BG00129209 Dated 2.12.2009.

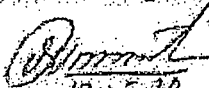
We wish to replace the present BG issued by ICICI Bank expiring on 3 rd, June, 2010 with a new
one that will be issued by Bank of India, Mumbai. This new BG will be valid until 3rd, December,
2010.

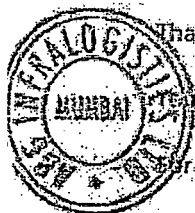
For good orders sake we request you to immediately confirm to enable us to proceed further.

Thanking You,

Yours faithfully,

For ABG Infralogistics Ltd,


12-5-10
Authorized Signatory



VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/245
Dt. 17-5-2010.

To

M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD No.	: ABG-Infra
	039
DATE	: 24/5/10

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay – 6 (WQ – 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg.

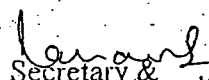
Ref: Your letter No. ABGINFRA/P/2007/05/007/2010 Dt. 24-4-2010.

Please refer to your letter cited.

In this connection, it is requested to take up the corrections in the proposed scope of work as per Annexure – 1 (copy enclosed) and in accordance with the clauses 1.1.3 of the RFP document and upon obtaining approval of VPT, to proceed further accordingly for registration of SPV and to enter into the Concession Agreement with VPT.

Encl: Copy of Annexure – 1.

Yours faithfully,


Secretary &
Attorney of the Board



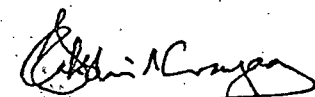
Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizaport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

Sub: Development of WQ-6 Berth in the Northern Arm of Inner Harbour of
Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis -
Clarifications w.r.t ABG's Lr no ABGINFRA/P/2007/05/2007/2010Dt. 24-
04-2010 indicating the scope of work proposed to be incorporated in the SPV,
by M/s ABG

Sl No	Item	As per ABG reference Letter dt 24-04-2010	VPT's remarks
1.	IV/B/1 Para no 1	Plan, design and construct 255m length of berth (in addition to the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of vessels up to 195m LOA, 32.2M Beam, and 12.5m draft up to 205M LOA can be accommodated subject to certain limitations. The berth shall be designed to cater up to 205M LOA vessels and for a dredged depth of (-) 14.0m	The scope of work shall be as indicated in Para - 1 clause no 1.1.3 of RFP of the subject project, which is shown below: "Plan, design and construct 255m length of berth (including dismantling the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of 14m draft vessels".
2.	IV/ B/2	To undertake and carry on business in India and abroad of procuring, handling, transporting, maintaining and managing of materials, facilities and personnel and to hire, purchase, sell, mortgage, alienate and otherwise deal in ports, inland container depots, container freight stations, warehouses, ships, barges, boats and vessels, lorries, cranes, tractors, aeroplanes, material handling equipments and other machinery goods as per the provision of the Concession Agreement.	This aspect was not indicated in the RFP. However, the same shall be in conformity with the Provisions of the Concession Agreement of the subject project. Hence, the following sentence shall be added at the end of the para 2:- "of the project - Development of Western Quay -6 (WQ-6) Berth in the Northern Arm of Inner harbour of Visakhapatnam Port for handling of Dry Bulk cargo on DBFOT Basis"


EXECUTIVE ENGINEER (Projects)

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Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2007/05/010/2010

Date: May 21, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

OUTWARD No.: *ABG-Infra*
old
DATE : *21/5/10*

Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg

Ref: 1. IENG/EE (Projects)/WQ-6/Vol XI, Dated 17-05-2010.

2. ABG/P425/231/2010, Dated 26-02-2010.

3. ABG/P425/237/2010, Dated 04-03-2010.

4. ABG/P425/239/2010, Dated 05-03-2010.

AA) Reference is invited to your letter cited at No.1 above.

As requested by you, we have incorporated the changes in the proposed scope of work in the Memorandum & Articles of Association in accordance with clause 1.1.3 of the RFP document. The revised Para III, Part A will read as below:

III. The objects for which the Company is established are:

A. THE MAIN OBJECTS OF THE COMPANY TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION ARE:

1. Broadly include development of WQ-6 berth for handling any dry bulk cargo/break bulk cargo (including Project cargo, Cars CKD set the likes etc.) except containers and export Alumina. The major components of works are indicated below:

- Plan, design and construct 255m length of berth (including dismantling the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of 14m draft vessels.
- Carry out capital dredging as per the provisions of the Concession Agreement and maintenance dredging up to 50.0 M from the face of the berth to (-) 14m CD from the present ground level / soundings.
- Procure and install suitable handling equipment at the berth and develop stacking area on about 12.2 acres of land, (at a distance of 3 km from the proposed berth) to be made available on long-term lease for the concession period of 30 years.
- Develop back up area, water supply, area illumination, fire fighting, railway and road facilities required including development of the land.

5th Floor, Bhupati Chambers
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
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Email: hq@abginfra.com

- Provide mechanical equipment to meet the performance standards that are indicated in the concession agreement. The concessionaire shall have the choice to select and deploy suitable equipment and their own labour for handling various operations within the premises of concessionaire both at the stacking area and the Berth area, as per provisions of the Concession Agreement.
 - Develop utilities and services such as communication, office accommodation, etc required for operation of the berth.
 - Compliance with environmental laws during implementation i.e. construction, operation and maintenance.
 - Planning, design, construction, operation and maintenance of all development works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant International Standards shall be complied with. Safety precautions, as per statutory requirements, shall also be complied with. The concessionaire shall ensure compliance to Quality, Environmental, Occupational Health and Safety and ISPS Codes.
 - Planning, design and engineering of the project shall confirm to technical specifications/preliminary design criteria and standards pre-determined by the Authority and as set out in the Concession Agreement to be entered into between the Concessionaire and the Authority.
 - Operation and maintenance thereof.
2. To undertake and carry on business in India and abroad of procuring, handling, transporting, maintaining and managing of materials, facilities and personnel and to hire, purchase, sell, mortgage, alienate and otherwise deal in ports, inland container depots, container freight stations, warehouses, ships, barges, boats and vessels, lorries, cranes, tractors, aeroplanes, material handling equipments and other machinery goods as per the provisions of the Concession Agreement of the project – Development of Western Quay – 6 (WQ-6) Berth in the Northern Arm of Inner harbor of Visakhapatnam Port for handling of Dry Bulk cargo on DBFOT basis.

Trust the above is in order and we request you to approve the same at the earliest. Upon receipt of your approval, we will submit the draft Memorandum of Association (MOA) and Articles of Association (AOA) of West Quay Multiport Pvt. Ltd. to the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) for their approval and incorporation of the Company.

BB) Reference is invited to our letters cited at No. 2, 3 & 4 above. We once again request your early concurrence to the proposed shareholding of the SPV, West Quay Multiport Pvt. Ltd.

Please note that we can incorporate the SPV, West Quay Multiport Pvt. Ltd., only after you have approved its Memorandum & Articles of Association as well as the proposed shareholding structure.

We look forward to an early response from your end.

Yours Sincerely

For ABG Infralogistics Ltd.

Mr. C. Babu Rajeev
(CE O)



3rd Floor, Chhatrapati Shivaji Maharaj
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2007/05/011/2010
Date: May 21, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

OUTWARD No.: ABG Infra
011
DATE : 21/5/10

Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Extension for entering into an Agreement with VPT.

- Ref:
1. ABG/P425/10, Dated 04-01-2010
 2. ABG/P425/213, Dated 15-02-2010
 3. ABG/P425/215/2010, Dated 17-02-2010
 4. ABG/P425/231/2010, Dated 26-02-2010
 5. ABG/P425/239/2010, Dated 05-03-2010
 6. ABG/P425/243/2010, Dated 15-03-2010
 7. ABG/P425/252/2010, Dated 24-03-2010
 8. ABGINFRA/P/2007/05/006/2010, Dated 22-04-2010
 9. ABGINFRA/P/2007/05/007/2010, Dated 24-04-2010
 10. ABGINFRA/P/2007/05/010/2010, Date 21-05-2010

We refer to the above letters wherein we have written to VPT on various issues to complete the formalities and accord approvals so that a SPV could be incorporated and thereafter the said SPV could enter into an Agreement with VPT.

As mentioned by you, due to procedural delays, the said approvals have not yet been granted by VPT. It is expected that VPT would grant these approvals at the earliest.

In view of the above, it is requested that VPT may extend the date for entering into an Agreement till such time all approvals are granted, the necessary formalities are completed to incorporate the SPV and thereafter enter into an Agreement with VPT.

It is also once again requested that the Memorandum & Articles of Association and the shareholding structure of the SPV be approved at the earliest.

Yours Sincerely,
For ABG Infralogistics Ltd

Mr. C. Babu Rajeev
(CEO)



VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/253

Dt. 22-5-2010.

✓To

M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD	ABG Infra 046
DATE	: 29-5-10

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay - 6 (WQ - 6) berth in the
Northern Arm of Inner Harbour of Visakhapatnam Port for
handling of dry bulk cargo on DBFOT basis" - Reg.

Ref: Your letter No.ABGVPT/WQ06/P01 Dt. 12-5-2010.

Please refer to your letter cited.

In this connection, it is to inform that your request for replacement of the present BG issued by ICICI Bank in connection with the subject Project towards Bid Security with a new one that would be issued by Bank of India, Mumbai is accepted. Please note that the BG shall be in force with effect from 2-6-2010 which shall be valid for a period of 6 months. Also inform the Bank Authorities, ie., Bank of India, Mumbai that the confirmation of the Bank in support of having issued the BG on behalf of your firm shall be issued simultaneously to the client, VPT as per the procedures in vogue, before 2-6-2010 along with the original BG.

TOP PRIORITY MAY PLEASE BE ISSUED TO THIS ISSUE.

Yours faithfully,

CHIEF ENGINEER

Ref : ABG/VPT/WQ-6/P02
Date : 22th May' 2010

INWARD No. : ABG-LTM/
MLSC/2010/163
DATE : 28/5/10

To
Chief Engineer
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam – 530035
Andhra Pradesh

Attention: Mr.Laxmi Narayan

Dear Sirs,

Sub: Development of Western Quay – 6 {WQ- 6} Berth in the Northern arm of Inner Harbour of Vishakapattanam Port for handling of dry bulk cargo on DBFOT basis.

Ref: Amendment of BG no. 039BG00189209 Dated 2.12.2009.

This is further to our letter ABG/VPT/WQ-6/P01 dated 12 th May,2001 and subsequent discussions the undersigned and Mr.N.Gopal had with your good selves on Friday , the 14 th,May,2010.

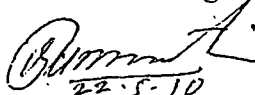
We kindly request you once again to confirm that we can replace the present BG issued by ICICI Bank expiring on 3 rd, June, 2010 with a new one that will be issued by Bank of India, Mumbai. This new BG as per your request will be kept valid until 3rd, December, 2010.

We have received a communication from ICICI bank that Vishakhapatnam Port Trust Engineering Department have communicated to them for invocation of BG 039BG00189209. Dated 2.12.2009

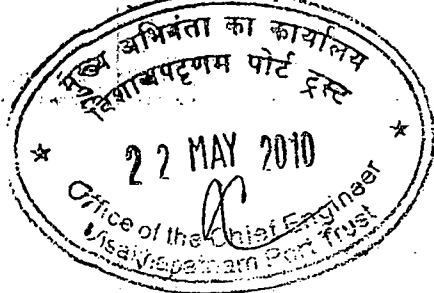
For good orders sake we request you to immediately inform ICICI bank not to invoke the B.G BG 039BG00189209 Dated 2.12.2009. We once again reiterate that we will furnish to you a new BG from Bank of India for which we are awaiting your confirmation.

Thanking You,
Yours faithfully,

For ABG Infralogistics Ltd,


22.5.10
Authorized Signatory

Cc: Mr K.V.Gupta – F.A& C.A.O.



VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/259

Dt. 25-5-2010.

✓
To

M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay - 6 (WQ - 6) berth in the
Northern Arm of Inner Harbour of Visakhapatnam Port for
handling of dry bulk cargo on DBFOT basis" - Reg.

Ref: 1. Your Ir No. ABGINFRA/P/ 2007/ 05 /010/2010
Dt. 21-5-2010.

2. Your letter No. ABGINFRA/P/ 2007/ 05 /011/2010
Dt. 21-5-2010.

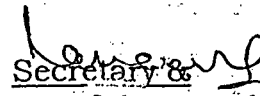
Please refer to your letters cited.

In this regard, it is to inform that the provisions made in the RFP and DCA shall hold good while processing the SPV and the same is being reiterated from time to time as can be seen from the VPT's correspondence mentioned thereon. The protracted correspondence being done by M/s ABG Infralogistics Limited is not called for. Hence it is once again reiterated that the scope of work to be mentioned in the SPV shall conform to the clause 1.1.3 of RFP and the provisions of DCA and no further correspondence will be entertained in this regard.

It may please be noted that the Concession Agreement shall be signed on or before 10-6-2010 duly complying the prerequisites as per RFP & DCA.

This may please be treated as MOST URGENT.

Yours faithfully,


Secretary &
Attorney of the Board

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2008/10/012/2010

Date: 28th May, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

OUTWARD No.: ABG Infra
012
DATE : 28/5/10

Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis"

Ref:

1. ABG/P425/10, Dated 04-01-2010
2. ABG/ P425/213, Dated 15-02-2010
3. ABG/P425/215/2010, Dated 17-02-2010
4. ABG/P425/231/2010, Dated 26-02-2010
5. ABG/P425/239/2010, Dated 05-03-2010
6. ABG/P425/243/2010, Dated 15-03-2010
7. ABG/P425/252/2010, Dated 24-03-2010
8. ABGINFRA/P/2007/05/006/2010, Dated 22-04-2010
9. ABGINFRA/P/2007/05/007/2010, Dated 24-04-2010
10. Your Letter No. IENG/EE(Projects)/WQ-6/Vol-XI/245, Dated 17-05-2010
11. ABGINFRA/P/2007/05/010/2010, Dated 21-05-2010
12. ABGINFRA/P/2007/05/011/2010, Dated 21-05-2010
13. Your Letter No. IENG/EE(Projects)/WQ-6/Vol-XI/259, Dated 25-05-2010

We refer to the letters above, and specifically to the letter under Ref 13.

At the outset, we deny your contention that our correspondence with regard to getting the said project to speedy execution has been protracted. Rather, we have shown utmost promptness in responding to all your clarifications and incorporating the same as and when needed. As regard the Scope of Work, we have already incorporated the necessary changes verbatim and have communicated the same to you

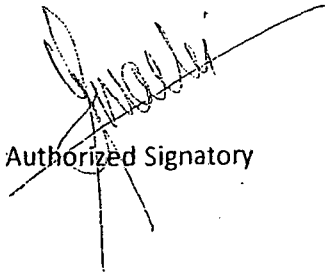
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

vide our Letter dated 21st May 2010. But you again seem not to be satisfied with the same for some reason or the other.

Thus, your comment about the delays caused by M/s ABG Infralogistics is uncalled for and not acceptable to us. We have been doing our best to get the project to execution stage successfully and as early as possible and will continue to do so. We solicit your cooperation in this regard for the greater benefit and well-being of both.

Yours Sincerely,

For ABG Infralogistics Ltd,


Authorized Signatory





13 Matnew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2007/05/014/2010
Date: 29th May, 2010

OUTWARD No.:	ABG Infra 014
DATE	: 29/5/10

To,
Visakhapatnam Port trust,
Engineering Department,
Visakhapatnam 530035.

Fax no: 22 23649236

Kind Attention: Chief Engineer/ Mr.Laxminarayana

Dear Sirs,

Sub: Development of Western Quay – 6 (WQ- 6) Berth in the Northern arm of Inner Harbour of
Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis

Ref: Submission of New Bank Guarantee

This refers your letter dated IENG/ EE (Projects) /WQ – 6/VOL XI/26 dated 29.05.2010

We are attaching herewith the Original Bank Guarantee No.0106 IPEBG 100280 dated 28th May, 2010.

We are informed by Bank of India that their zonal office will inform you of the opening of the BG directly to you on Monday the 31st May, 2010.

Thanking You,

Yours Faithfully,
For ABG Infralogistics Pvt Ltd

Authorized Signatory

Cc: Mr.K.V.Gupta – F.A& C.A.O

BANK OF INDIA
MUMBAI CORPORATE BANKING BRANCH
Mezzanine floor,
70-80, M. G. Road, Mumbai 400023.
Tel. 022-22673663 / 22651620 Fax. 022-22692196
E-mail - mcbb.mumbaisouth@bankofindia.co.in
Swift : BKIDINBBMCB

Ref. No.MCBB/GTE/2010-11/
Date : 28th May, 2010.

Visakhapatnam Port Trust,
Visakhapatnam,
Andhra Pradesh 530035.

Dear Sirs,

Our Guarantee No.0106IPEBG100280
dt.28.05.2010 for Rs.11450000/-
favoring yourself, issued on behalf of
M/s. ABG Infralogistics Ltd.,
expiring on 03.12.2010

We attach herewith the captioned guarantee, in original, as requested by
the applicant M/s. ABG Infralogistics Ltd., Mumbai.

2. You are advised in your own interest to get the confirmation of this
guarantee from our Controlling Office at the following address, enclosing a
certified xerox copy of the guarantee :

The Zonal Manager,
Mumbai South Zone,
1st floor, 70/80, M. G. Road,
Fort, Mumbai 400023.
Tel. No. 022-22673599 / 22632071
Fax No.022-22632068

Yours faithfully,



Sr. Manager
Foreign Exchange Dept..

4

28 MAY 2010

assigns), for the development of Western Quay (WQ-6) Berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis (hereinafter referred to as "the Project") pursuant to the RFP Document dated 11.08.2009 issued in respect of the Project and other related documents (hereinafter collectively referred to as "Bidding Documents"), We Bank of India having our head office at Star House, C-5, G Block, Bandra Kurla Complex, Bandra (East), Mumbai and one of our branches at Mumbai Corporate Banking Branch at Mezzanine Floor, 70-80 M.G.Road, Fort, Mumbai-400 001 (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. 1,14,50,000/- (Rupees One Crore Fourteen Lacs Fifty Thousand only) as bid security (hereinafter referred to as the "Bid Security") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.

2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.

3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. 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 Rs. 1,14,50,000/- (Rupees One Crore Fourteen Lacs Fifty Thousand only).

4. This Guarantee shall be irrevocable and remain in full force with effect from ~~28 June 2010~~ ^{28 MAY 2010} for a period of 6 months (Six months) i.e. upto 03-12-2010 inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding



28 MAY 2010

Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person or entity.

7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9. We, the Bank undertake to make the payment on receipt of your notice of claim on us addressed to Mumbai Corporate Banking Branch at Mezzanine Floor, 70-80 M.G. Road, Fort, Mumbai-400 001 and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.



28 MAY 2010

12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by Bank of India



By the hand of Mr/Ms R.D. Bhagwate and Ram Dayal and authorised officials,

(Signature of the Authorised Signatory)

(Official Seal)

Date : 28 MAY 2010

Place : Mumbai



Notwithstanding anything contained herein

Our liability under this Bank Guarantee shall not exceed

Rs. 11450,000/- (Rupees one crore forty five thousand) only

1) This Bank Guarantee shall be valid upto 03.12.2010 and

2) We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written claim or demand on or before

03.12.2010 (date of expiry of guarantee)

The confirmation of this bank guarantee is available with our controlling office. The beneficiary in his own interest should obtain such confirmation from the controlling office at the following address, enclosing a certified photocopy of the guarantee.

The Zonal Manager,
Bank of India,
Mumbai South Zone,
C & I C Dept., 1st Floor,
Mumbai-400 023.
Tel. No. 22673559/22532071
Fax No. 22632058

कुते बैंक ऑफ इंडिया
For BANK OF INDIA

R.D. Bhagwate Ram Dayal
Authorised Signatory Authorised Signatory
मुम्बई कॉर्पोरेट बैंकिंग शाखा
Mumbai Corporate Banking Br.

R-630

28 MAY 2010

Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person or entity.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We, the Bank undertake to make the payment on receipt of your notice of claim on us addressed to Mumbai Corporate Banking Branch at Mezzanine Floor, 70-80 M.G. Road, Fort, Mumbai-400 001 and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.

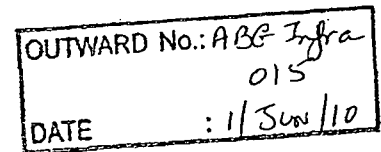


5th Floor, Bhupali Chambers,
13 Malhew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2007/05/015/2010

Date: June 01, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com



Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" – Reg

Ref: 1. IENG/EE (Projects)/WQ-6/Vol XI/253, Dated 22-05-2010.

2. ABGINFRA/P/2007/05/010, Dated 21-05-2010

3. ABG/P425/231/2010, Dated 26-02-2010

4. ABG/P425/239/2010, Dated 05-03-2010

5. Meeting with Chief Engineer, Visakhapatnam Port Trust, on 31-05-2010

We invite your reference to the above correspondence and the meeting held with C/E on 31st May 2010 in the office of the Chief Engineer.

1. As discussed in the meeting, we propose to amend the scope of work in the Memorandum of Association. The revised Para III, Part A will read as below:

III. The objects for which the Company is established are:

A. THE MAIN OBJECTS OF THE COMPANY TO BE PURSUED BY THE COMPANY ON ITS INCORPORATION ARE:

1. Broadly include Planning, Engineering, Designing, Financing, Construction, Development, Operation & Maintenance thereof of WQ-6 berth for handling any dry bulk cargo as per clause 1.1.3 of the Request For Proposal ("RFP") document and the provisions of the Draft Concession Agreement ("DCA").

2. To undertake and carry on business in India and abroad of procuring, handling, transporting, maintaining and managing of materials, facilities and personnel and to hire, purchase, sell, mortgage, alienate and otherwise deal in ports, inland container depots, container freight stations, warehouses, ships, barges, boats

5th Floor, Bhupati Chambers,
13 Malhew Road,
Mumbai 400 004. INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

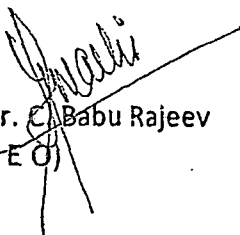
and vessels, lorries, cranes, tractors, aeroplanes, material handling equipments and other machinery goods as per the provisions of the Concession Agreement of the project – Development of Western Quay – 6 (WQ-6) Berth in the Northern Arm of Inner harbor of Visakhapatnam Port for handling of Dry Bulk cargo on DBFOT basis.

We once again request you to grant your approval for the Memorandum of Association at the earliest. Upon receipt of your approval, we will submit the draft Memorandum of Association (MOA) and Articles of Association (AOA) of West Quay Multiport Pvt. Ltd. to the Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India) for their approval and incorporation of the Company. If any changes are requested by Registrar of Companies, Maharashtra (Ministry of Company Affairs, Government of India), we will accordingly intimate you.

2. We also, once again, request you to grant approval of the proposed initial paid up equity capital (Share Holding) of West Quay Multiport Pvt. Ltd., which has previously been submitted to you.

We look forward to an early response from your end.

Yours Sincerely
For ABG Infralogistics Ltd


Mr. C. Babu Rajeev
(CEO)





5th Floor, Bhupati Chambers,
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref : ABGINFRA/P/2007/05/017/2010

Date : 2nd, June, 2010

Vishakapattanam Port trust,
Engineering Department,
Vishakapattanam 530035.

URGENT

OUTWARD No.: ABGINFR
017
DATE : 2-6-20

Fax no 0891- 2565023

Attention: Chief Engineer/ Mr.Laxminarayana

Dear Sirs,

Sub: Development of Western Quay – 6 {WQ- 6} Berth in the Northern arm of Inner Harbour of Vishakapattanam Port for handling of dry bulk cargo on DBFOT basis

Ref: Cancellation of invoking B.G no 039 BG 00189209 DATED 2.12.2009 issued in your favour by ICICI Bank

We refer to our letter ABGINFRA /P/ 2007 /05/014/2010 dated 29th May, 2010 with which we have already submitted to you the Original Bank Guarantee no.0106 IPEBG 100280 dated 28th May, 2010-issued by: Bank of India. The acknowledgement of our letter by your good self is attached herewith.

You have also verbally confirmed to us that you also have a direct communication from the Zonal office of Bank of India confirming the opening of the above bank guarantee.

ICICI have reminded to us over phone that till the time of writing this your letter cancelling the invoking has not reached them. Our Mr.N.Gopalakrishnan has spoken to your Mr. Lakhminarayana over phone today and we have been assured that the cancellation letter to ICICI will be submitted within today.

As the matter is very urgent we kindly request you to do the needful and also confirm to us in writing that you have cancelled the invoking of the ICICI BG.

Thanking You,

Yours Faithfully,
ABG Infralogistics Ltd

Authorized Signatory

Cc: Mr.K.V.Gupta – F.A& C.A.O



BY REGD POST WITH ACK DUE
VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14001 PORT
OHSAS 18001 PORT
No. IENG/EE(Projects)/WQ-6/Vol-XI/265
DL 02-6-2010

To

ICICI BANK LIMITED,
ICICI Bank Centre,
163, H.T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE,
MUMBAI - 400 020

INWARD No. ABG Infr
051
DATE 2/6/10

FAX (022) 66538855

Dear Sir,

Subj: Bank Guarantee G No. 0393BG00189209 Dt 06-11-2009 in your favour for an
Amount not exceed for Rs. 1,14,50,000/- issued at the request of M/S ABG
Infra Logistics Ltd.

Ref: 1) This office letter No. IENG/EE(Projects)/WQ-6/Vol-XI/228 Dt 8-5-2010.
2) Your letter No ICBK/CIBD/BBR/AK/2010-11/372 Dt 19-05-10.

Please refer to your letters cited

It is to inform not to invoke the BG/0393BG00189209 Dt 2-12-2009 for
Rs. 1,14,50,000/- issued on behalf of ABG Infra Logistics Limited as the firm has submitted
another BG.

Yours faithfully,

CHIEF ENGINEER

✓ Copy to: To M/s. ABG Infra Logistics Ltd.
5th Floor, Bhupati Chambers,
13, Malhevi Road,
Mumbai - 400 004, for information please

FAX NO: +9122-23649236

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565028; Grams: "PORTRUST" E-mail: info@vportrust.com

Received
2/6/10
16-13-1003

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENTISO 9001 PORT
ISO 14001 PORT
OHSAS 18001 PORTNo. IENG/EE(Projects)/WQ-6/Vol-XI/
Dt. -6-2010. 266

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
MUMBAI - 400 004.

FAX NO. +9122-23649236

Dear Sir,

Sub: "Development of Western Quay - 6 (WQ - 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" - Reg.

Ref: 1) Meeting held with your representatives in this Chambers of CE/VPT on 31-5-2010

2) This office letter No. IENG/EE(Projects)/WQ-6/Vol-XI/259, Dt. 25-5-2010.

Please refer to the meeting held in the Chambers of CE/VPT vide reference 1st cited. In this regard the following are VPT's clarifications.

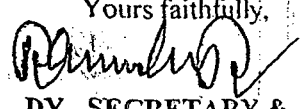
Sl. No	Issue	VPT's clarifications
1	M/s ABG proposal vide their letter no ABG / P425 / 231 /2010 dated 26-02-2010 states that in-compliance with clause no 11.2 of Concession Agreement, the initial paid-up capital (share holding) of the SPV (M/s West quay Multiport Pvt Ltd.) shall be: <ul style="list-style-type: none">• ABG Infralogistics Ltd --- 51%• ABG-LDA Bulk Handling--49% ABG-LDA bulk Handling Pvt,Ltd is a subsidiary of ABG Infralogistics Ltd And VPT's concurrence in this regard is requested.	The share holding pattern of the SPV to be formed by M/s. ABG Infralogistics Ltd. is acceptable to VPT as the same is in line with the requirements of the Concession Agreement of the subject project.
2	The MOA and AOA of the SPV to be formed by M/s. ABG Infralogistics Ltd, duly modifying the Scope of work as per clause 1.1.3 of RFP and as per the provisions of DCA of the subject project as clarified by VPT and as agreed upon by M/s. ABG. On 31-5-2010.	The MOA & AOA documents of the SPV to be formed by M/s.ABG Infralogistics Ltd, is acceptable to VPT subject to compliance of the scope of work as per clause 1.1.3 of RFP and as per the provisions of DCA of the subject project.


Notwithstanding the clarifications furnished above any thing contrary to the provisions of RFP & DCA documents for the subject project is deemed to be not accepted.

Therefore the necessary incorporation of SPV may be made accordingly and it is once again requested that the Concession Agreement shall be signed on or before 10-6-2010 duly complying the prerequisites as per RFP & DCA..

This may please be treated as MOST URGENT.

Yours faithfully,


**DY SECRETARY &
ALTERNATIVE ATTORNEY OF
THE BOARD**


Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

5th Floor, Bhupati Chamber
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref : ABGINFRA/P/2007/05/018/2010

Date 7th, June, 2010

Secretary & Attorney of the Board,
Engineering Department,
Visakhapatnam Port trust,
Visakhapatnam 530035. AP

OUTWARD No.: **ABG-INFRA**
018
DATE : 7-6-10

Sub: Development of Western Quay – 6 (WQ-6) Berth in Northern arm of inner harbor of Visakhapatnam Port for handling of Dry Bulk cargo on DBFOT basis – Reg.

- Ref: 1. Our letter Ref no ABG/ P425/231 /2010 Dt. February, 26 Th, 2010
2. Meeting held with our representatives in the chambers of CE/ VPT on 31.05.2010
3. Your office letter no. IENG / EE (Projects) / WQ- 6/ Vol. – XI/ 259, Dt. 25.05.2010
4. Your office letter no. IENG/ EE (Projects) WQ- 6/Vol. XI/ 266 Dt. 3.06.2010

Dear Sir,

We thank you for your letter No. IENG/ EE (Projects) WQ- 6/Vol. XI/ 266 Dt. 3.06.2010. We are now continuing with incorporation of M/s. West Quay Multiport Private Ltd ("SPV") with the Registrar of Companies.

We are attaching herewith a copy of our letter ABG/P245/231/2010 dated February, 26 Th, 2010 for your ready reference.

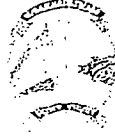
In compliance with clause 11.2(a) of the concession agreement, the equity capital of M/S.ABG Infralogistics Ltd in the SPV shall not be less than 26% after 3 years from the date of commercial operations and that M/s.ABG Infralogistics shall hold at any time not less than 26% of the paid up Equity capital of the SPV. Accordingly ABG Infralogistics will reduce their equity capital holding in the SPV from 51% (the initial equity holding) to 26 % after 3 years from the date of commercial operations. M/s. ABG Infralogistics, thereafter will continue to hold at any time 26% of the paid up equity capital of the SPV.

We trust the above is in full compliance with the provisions of the RFQ, RFP & Concession agreement and will appreciate your early confirmation.

Yours sincerely,
For ABG Infralogistics Ltd

C. Babu Rajeev
CEO

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14001 PORT
OHSAS 18001 PORT
No. IENG/EE(Projects)/WQ-6/Vol-XI/27
Dt. 11-6-2010.

To

M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD No. : ABG IJ/K
075
DATE : 14/6/10

FAX NO. +9122-23649236

Dear Sir,

Sub: Development of Western Quay - 6 (WQ - 6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on
DBFOT basis" - Reg.

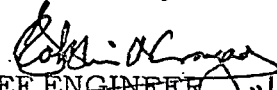
Ref: M/s. ABG Infralogistics Ltd., Mumbai letter No.ABG/VPT/WQ-6/P03
Dt.11-6-10.

Please refer to your letter cited.

The Original BG No. 0393 BG00 189209 Dt. 6-11-2009 for Rs. 1,14,50,000/-
issued by ICICI Bank and submitted by you along with RFP document for the subject
Project towards Bid Security is returned herewith in original as desired.

Encl: Original BG No. 0393 BG00 189209 Dt. 6-11-2009 for Rs. 1,14,50,000/-.

Yours faithfully,


CHIEF ENGINEER 11/6/10

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

Received
11-6-10





ICICI BANK LTD
[Signature]
Authorised Signatory

Industrial Development Bank of
India Ltd. 2nd Floor, Nariman Point,
Mumbai-400021.

भारत 36695
140502

SPECIAL
ADHESIVE
महाराष्ट्र
NOV 26 2009

This Form is an Integral Part of
Bank Guarantee
Issued By ICICI Bank Limited
STAMP DUTY - MAHARASHTRA



14:00
Rs. 0000100/-PB5280

0393 B4-00189209 dt. 06/11/09
Amendment dated 12/11/09 08/11/09



FOR ICICI BANK LIMITED

[Signature]
Authorised Signatory

ICICI BANK LIMITED
ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

[Signature]

[Signature]

Sr. No.

423708

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)

BG Number: 0393BG00189209

Amendment Date: 08.12.2009

1 To,
2 VISAKHAPATNAM PORT TRUST
3 VISAKHAPATNAM,
4 ANDHRA PRADESH,
5 INDIA

6 Sub : Amendment to Bank Guarantee No 0393BG00189209 Dtd 06-11-2009 for Rs. 1,14,50,000.00

7 At the request of 'ABG Infralogistics Limited'. We hereby amend above mentioned Bank Guarantee
8 as follows:

9 1-Para no 13, Line no 94 to 98 at page no 5 stands deleted.

10 All other terms and conditions of the original Bank Guarantee remain unchanged. This letter forms
11 an integral part of the original guarantee referred above and may be kept attached thereto.

12 Place : Mumbai

13 Date : 08.12.2009

14 For ICICI BANK LIMITED

15 Authorised Signatories

16 Signature :

17 Name :

18 Signature Code :

Signature :

Name :

Signature Code :

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Page 1 of 1

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Regd. Office: " Landmark", Race Course Circle, Vadodara-390 007. Phone : 0265-2339923-25 Fax: 0265-2339926
E-mail: corporatecare@icicibank.com SWIFT : ICICIN BB

Sr. No. 423593

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)

B.G Number: 0393BG00189209
Amendment Date: 02.12.2009

- 1 To,
2 VISAKHAPATNAM PORT TRUST
3 VISAKHAPATNAM, ANDHRA PRADESH, INDIA
4 Sub : Amendment to Bank Guarantee No 0393BG00189209 Dtd 06-11-2009 for Rs. 1,14,50,000.00
5 At the request of 'ABG Infralogistics Limited'. We hereby amend above mentioned Bank
6 Guarantee as follows:

- 7 1. The validity of the bank guarantee is extended up to 03.06.2010
8 All other terms and conditions of the original Bank Guarantee remain unchanged. This letter forms
9 an integral part of the original guarantee referred above and may be kept attached thereto.
10 Notwithstanding anything contained here in above,
11 1) Our liability under this Bank guarantee shall not exceed Rs. 1,14,50,000.00 (Rupees One Crore
12 Fourteen Lacs Fifty Thousand Only)
13 2) This Bank Guarantee shall be valid up to 03.06.2010
14 3) We shall be liable to pay any amount under this Bank guarantee or part thereof only if we
15 receive a written claim or demand under this guarantee on or before 03.06.2010 at ICICI Bank Ltd.

- 16 Place : Mumbai
17 Date : 02.12.2009

- 18 For ICICI BANK LIMITED

- 19 Authorised Signatories

- 20 Signature: Ashwini Kadam

- Signature: Mohit Mahajan

- 21 Name: Ashwini Kadam
K 1341

- Name: Mohit Mahajan
MANAGER

- 22 Signature Code: M 2222

- Signature Code: M 2222

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Page 1 of 1

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

For IDBI BANK LTD.

Authorised Signatory

Industrial Development Bank of
India Ltd. Central Court 'A' Wing,
2nd Floor, Nariman Point,
Mumbai-400021.

D-5/STP(V)/C.R.1007/03/05/1025-1032

This Forms an Integral Part of
Bank Guarantee
Issued By ICICI Bank Limited

भारत 36786
192500



SPECIAL
ADHESIVE
NOV 26 2009

14:06

Rs 0000100/-PB5280

INDIA STAMP DUTY MAHARASHTRA

03938900189209 - Date - 06.11.2009

Amendment Date - 02.12.2009

For ICICI BANK LIMITED

Authorised Signatory

Authorised Signatory

Authorised Signatory

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Industrial Development Bank of
India Ltd. ~~Mittal~~ Court 'A' Wing,
2nd Floor, Nariman Point,
Mumbai-400021.

D-5/STP(V/C R 1407/03/05/2020-1032
For IDBI BANK LTD.



SPECIAL
ADHESIVE
OCT 26 2009

10:30

R.0000100/-PB5280

INDIA STAMP DUTY MAHARASHTRA

Authorised Signatory

This Forms an Integral Part of
Bank Guarantee

Issued By ICICI Bank Limited

0393 Bk-00189209 dt. 06/11/09

For ICICI BANK LIMITED

Shadav
Arhael
Authorised Signatory

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

BANK GUARANTEE**ICICI Bank Limited**

(Incorporated in India)



BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

1 APPENDIX - II

2 Bank Guarantee for Bid Security

3 (Refer Clauses 2.1.7 and 2.20.1)

4 B.G. No. 0393BG00189209

Dated: 06.11.2009


5 1. In consideration of you, Visakhapatnam Port Trust, having its office at Visakhapatnam,
 6 Andhra Pradesh, India, (hereinafter referred to as the "Authority", which expression shall
 7 unless it be repugnant to the subject or context thereof include its, successors and assigns)
 8 having agreed to receive the Bid of ABG Infralogistics Ltd. [a Company registered under
 9 provision of the Companies Act, 1956] and having its registered office at 5th Floor, Bhupati
 10 Chambers, 13 Mathew Road, Mumbai - 400004 [and acting on behalf of its Consortium]
 11 (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the
 12 subject or context thereof include its/their executors administrators, successors and
 13 assigns), for the development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
 14 Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis
 15 (hereinafter referred to as "the Project") pursuant to the RFP Document dated 11.08.2009
 16 issued in respect of the Project and other related documents (hereinafter collectively
 17 referred to as "Bidding Documents"), we ICICI Bank Ltd. having our registered office at
 18 Landmark, Race Course Circle, Vadodara 390 007 and one of our branches at ICICI
 19 CENTER, 163, H.T. Parekh Marg, Backbay Reclamation, Churchgate, Mumbai - 400020
 20 (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of
 21 Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and
 22 without reservation guarantee the due and faithful fulfilment and compliance of the terms
 23 and conditions of the Bidding Documents (including the RFP Document) by the said Bidder
 24 and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount
 25 of Rs. 11.45 Million (Rupees Eleven decimal four five million only) as bid security

ICICI BANK LIMITED

ICICI CENTRE,
 163, H. T. PAREKH MARG,
 BACKBAY RECLAMATION,
 CHURCHGATE, MUMBAI - 400 020.

For ICICI BANK LIMITED

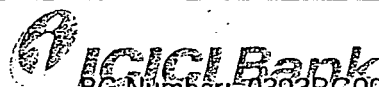
Page 1 of 5


 Authorised Signatory

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020, Fax: 0265-2341551.
 E-mail: corporatecare@icicibank.com

BANK GUARANTEE**ICICI Bank Limited**

(Incorporated in India)



BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

26 (hereinafter referred to as the "Bid Security") as our primary obligation without any demur,
 27 reservation, recourse, contest or protest and without reference to the Bidder if the Bidder
 28 shall fail to fulfill or comply with all or any of the terms and conditions contained in the said
 29 Bidding Documents.

30 2. Any such written demand made by the Authority stating that the Bidder is in default of the
 31 due and faithful fulfilment and compliance with the terms and conditions contained in the
 32 Bidding Documents shall be final, conclusive and binding on the Bank.

33 3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable
 34 under this Guarantee without any demur, reservation, recourse, contest or protest and
 35 without any reference to the Bidder or any other person and irrespective of whether the
 36 claim of the Authority is disputed by the Bidder or not merely on the first demand from the
 37 Authority stating that the amount claimed is due to the Authority by reason of failure of the
 38 Bidder to fulfil and comply with the terms and conditions contained in the Bidding
 39 Documents including failure of the said Bidder to keep its Bid open during the Bid validity
 40 period as set forth in the said Bidding Documents for any reason whatsoever. Any such
 41 demand made on the Bank shall be conclusive as regards the amount due and payable by
 42 the Bank under this Guarantee. However, our liability under this Guarantee shall be
 43 restricted to an amount not exceeding Rs. 11.45 million (Rupees Eleven decimal four five
 44 Million only).

45 4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one
 46 hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty)
 47 days or for such extended period as may be mutually agreed between the Authority and
 48 the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts

ICICI BANK LIMITED

ICICI CENTRE,
 163, H. T. PAREKH MARG,
 BACKBAY RECLAMATION,
 CHURCHGATE, MUMBAI - 400 020.

FOR ICICI BANK LIMITED

Page 2 of 5

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
 E-mail: corporatecare@icicibank.com

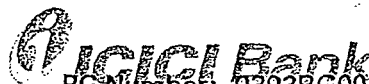
Authorised Signatory

Sr. No. 422986

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

49 under this Guarantee have been paid.

50 5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to
51 whether the Bidder is in default of due and faithful fulfilment and compliance with the
52 terms and conditions contained in the Bidding Documents including, inter alia, the failure of
53 the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding
54 Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall
55 be final and binding on us, notwithstanding any differences between the Authority and the
56 Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

57 6. The Guarantee shall not be affected by any change in the constitution or winding up of the
58 Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank
59 with any other person or entity.

60 7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank
61 as the principal debtor. The Authority shall have the fullest liberty without affecting in any
62 way the liability of the Bank under this Guarantee from time to time to vary any of the terms
63 and conditions contained in the said Bidding Documents or to extend time for submission
64 of the Bid or the Bid validity period or the period for conveying acceptance of Letter of
65 Award by the Bidder or the period for fulfilment and compliance with all or any of the terms
66 and conditions contained in the said Bidding Documents by the said Bidder or to postpone
67 for any time and from time to time any of the powers exercisable by it against the said
68 Bidder and either to enforce or forbear from enforcing any of the terms and conditions
69 contained in the said Bidding Documents or the securities available to the Authority, and
70 the Bank shall not be released from its liability under these presents by any exercise by the
71 Authority of the liberty with reference to the matters aforesaid or by reason of time being

ICICI BANK LIMITED

ICICI CENTRE,

163, H. T. PAREKH MARG,

BACKBAY RECLAMATION,

CHURCHGATE, MUMBAI - 400 020.

Page 3 of 5

FOR ICICI BANK LIMITED

Shadaw
Hsu

Nashad

Authorized Signatory

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Regd. Office: "Landmark", Race Course Circle, Vadodara-390 007. Phone : 0265-2339923-25 Fax: 0265-2339926
E-mail: corporatecare@icicibank.com SWIFT : ICIC IN BB

299

Sr. No. 422987

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)

ICICI Bank
BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

72 given to the said Bidder or any other forbearance, act or omission on the part of the
73 Authority or any indulgence by the Authority to the said Bidder or by any change in the
74 constitution of the Authority or its absorption, merger or amalgamation with any other
75 person or any other matter or thing whatsoever which under the law relating to sureties
76 would but for this provision have the effect of releasing the Bank from its such liability.

77 8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or
78 made if addressed to the Bank and sent by courier or by registered mail to the Bank at the
79 address set forth herein.

80 9. We, the Bank undertake to make the payment on receipt of your notice of claim on us
81 addressed to ICICI Bank Ltd., ICICI CENTER 163, HT Parekh Marg, Backbay Reclamation,
82 Churchgate, Mumbai- 400020 and delivered at our above branch who shall be deemed to
83 have been duly authorised to receive the said notice of claim.

84 10. It shall not be necessary for the Authority to proceed against the said Bidder before
85 proceeding against the Bank and the guarantee herein contained shall be enforceable
86 against the Bank notwithstanding any other security which the Authority may have
87 obtained from the said Bidder or any other person and which shall, at the time when
88 proceedings are taken against the Bank hereunder, be outstanding or unrealised.

89 11. We, the Bank, further undertake not to revoke this Guarantee during its currency except
90 with the previous express consent of the Authority in writing.

91 12. The Bank declares that it has power to issue this Guarantee and discharge the obligations
92 contemplated herein, the undersigned is duly authorised and has full power to execute this

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2346020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Page 4 of 5

For ICICI BANK LIMITED

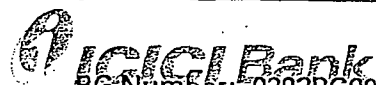
Shadav
12/11/09
Authorised Signatory

Sr. No. 422988

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

93 Guarantee for and on behalf of the Bank.

94 13. Notwithstanding anything stated above, our liability under this guarantee shall be restricted
95 to Rs. 11.45 million (Rupees Eleven decimal four five Million only) and our guarantee shall
96 remain in force up to 09th May, 2010 and unless a demand or claim under the guarantee is
97 made on us in writing on or before the 09th May, 2010 all your rights under the guarantee
98 shall be forfeited and we shall be relieved and discharged from all liabilities there under.

99 Signed and Delivered by _____ Bank

100 By the hand of Mr./Ms _____, its _____ and authorised official.

101 (Signature of the Authorised Signatory)

102 (Official Seal)

103 Date : 06.11.2009

104 Place : Mumbai

105 FOR ICICI BANK LTD.

106 SIGNATURE: Ashwini Kadam

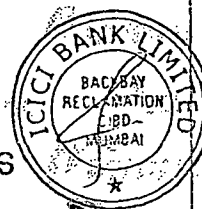
107 NAME: _____

108 SIGNATURE CODE: Ashwini Kadam
K 1341

SIGNATURE: Michael

NAME: _____

SIGNATURE CODE: 18'S
18'S



ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

ACHAEL JOHN
Manager (J-247)

Page 5 of 5

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Regd. Office: " Landmark", Race Course Circle, Vadodra-390 007. Phone : 0265-2339923-25 Fax: 0265-2339926
E-mail: corporatecare@icicibank.com SWIFT : ICICIN BB

Ref : ABG/VPT/WQ-6/P03
Date : 11th June' 2010

INWARD No. : ABG Infra
034
DATE : 14/6/10

To
Chief Engineer
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam - 530035
Andhra Pradesh

Attention: Mr.Laxmi Narayan

Dear Sir,

Sub: Development of Western Quay - 6 (WQ- 6) Berth in the Northern arm of Inner Harbour of Vishakapattanam Port for handling of dry bulk cargo on DBFOT basis.

Ref: Our Letter No. ABGINFRA/P/2007/05/014/2010 Dt. 29th May' 2010.

Reg: Request for return the Original Bank Guarantee No: 0393BG00189209 dt. 06.11.2009.

With reference to the subject project, a fresh Bank Guarantee in Original, bearing no. 0106 IPEBG 100280 dt. 28th May' 2010 is issued from Bank of India, Mumbai Corporate Banking Branch, Mumbai. In your favour for an amount of Rs. 1,14,50,000/- (Rupees One Crore Fourteen Lakhs Fifty Thousand Only) valid upto 3rd December' 2010. This original Bank Guarantee was submitted to you on dated 31.05.2010.

The Original B.G. No. 0393BG00189209 Dt. 06.11.2009 issued in your favour from ICICI Bank Ltd., Mumbai, for an amount of Rs. 1,14,50,000/- (Rupees One Crore Fourteen Lakhs Fifty Thousand Only) may please be returned to us on urgent basis. This original BG can handover to our site representative Mr.Ismail Sanadi, Production Manager.

We look forward to an early response from your end.

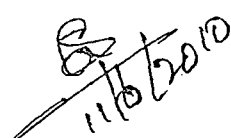
Thanking You,

For ABG Infralogistics Ltd,


11-06-10
Authorized Signatory

Cc: Mr.K.V.Gupta - F.A & C.A.O, VPT




11/6/2010





ABGINFRA/P/2007/05/022/2010

Date 17th, June, 2010

To,
Secretary & Attorney of the Board,
Engineering Department,
Visakhapatnam Port trust,
Visakhapatnam 530035. AP
Ph: 0891-2565289
Fax: 0891-2565023

Sub: Development of Western Quay - 6 (WQ-6) Berth in Northern arm of inner harbor of Visakhapatnam Port for handling of Dry Bulk cargo on DBFOT basis - Reg.

- Ref: 1) our letter Ref no ABG/ P425/231 /2010 Dt. February, 26 Th, 2010
2) Meeting held with our representatives in the chambers of CE/ VPT on 31.05.2010
3) your office letter no. JENG / EE (Projects) / WQ- 6/ Vol. - XI/ 259, Dt. 25.05.2010
4) your office letter no. JENG/ EE (Projects) WQ-6/Vol. XI/ 266 Dt. 3.06.2010
5) our letter Ref no. ABGINFRA /P/2007 /05 /018/2010 dated 7th, June, 2010
6) your letter Ref no. JENG/EE/(Projects) WQ-6/Vol- XI/278/Dated 10.06.2010
7) our letter Ref no. ABGINFRA/P/2007/05/020/2010 dated 12 Th, June, 2010

Dear Sir,

We refer our letter no. ABGINFRA/P/2007/05/020/2010 dated 12 Th, June, 2010. The Registrar of Companies, Mumbai, Maharashtra has insisted that we should reword Para A 1 of the main objects of the Memorandum of Association of the SPV.

The reworded Para A1 is given below:

"To carry on the activity of Planning, Engineering, Designing, Financing, Construction, Development, Operation & Maintenance thereof of WQ-6 berth, to handling any dry bulk cargo as per clause 1.1.3 of the Request For Proposal ("RFP") document, and the provisions of the Draft Concession Agreement ("DCA") entered with Vishakhapatnam Port Trust"

Para A1 earlier read as below:

"Broadly include Planning, Engineering, Designing, Financing, Construction, Development, Operation & Maintenance thereof of WQ-6 berth, to handling any dry bulk cargo as per clause 1.1.3 of the Request For Proposal ("RFP") document, and the provisions of the Draft Concession Agreement ("DCA")"

5th Floor, Bhupali Chambers,
13 Malabar Road,
Mumbai 400 004, INDIA.
Tel: +91-22-6656 3900
Fax: +91-22-2354 8236
Email: hq@abginfra.com


The reworded Para comply with Request for approval ("RFP") document and the provisions of the Draft concession agreement.

As soon as we submit the Memorandum of Association with the corrected Para the Registrar of Companies will complete the company registration.

Kindly requesting you to immediately grant your approval to reword the Para A1 as mentioned above.

Yours sincerely,

For ABG Infralogistics Ltd



C. Babu Rajeev
CEO



VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14001 PORT
OHSAS 18001 PORT
No. IENG/EE(Projects)/WQ-6/Vol-XI/29.
Dt. 10-6-2010.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD No. : ABG Infra/
078
DATE : 22/6/10

FAX NO. +9122-23649236

Dear Sir,

Sub: Development of Western Quay - 6 (WQ - 6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis" - Reg.

Ref: 1. This office lr No. IENG/EE(Projects)/WQ-6/Vol.XI/278 Dt. 10-6-2010.
2. Your Fax lr No. ABGINFRA/P/2007/05/022/2010 Dt. 17-6-2010.

Please refer to your fax letter 2nd cited.

In this regard, it may please be noted that as already indicated vide this office letter under reference 1st cited, as long as the proposals are in-compliance with the provisions of RFP and DCA documents of the subject Project, the same are acceptable to VPT. However, with respect to your letter under reference 2nd cited, the following are VPT's clarifications:

SINo	Issue as per M/s. ABG Infralogistics Ltd.,	VPT's clarifications
1	<p>The reworded Para A1 is given below: "To carry on the activity of Planning, Engineering, Designing, Financing, Construction, Development, Operation & Maintenance thereof of WQ-6 berth, to handling any dry bulk cargo as per clause 1.1.3 of the Request for proposal ("RFP") document, and the provisions of the Draft Concession Agreement ("DCA") to be entered with Visakhapatnam Port Trust"</p> <p>Para A 1 earlier read as below: "Broadly include Planning, Engineering, Designing, Financing, Construction, Development, Operation & Maintenance thereof of WQ-6 berth to handling any dry bulk cargo as per clause 1.1.3 of the Request for Proposal ("RFP") document, and the provisions of the Draft Concession Agreement ("DCA")</p> <p>The reworded Para comply with Request for Proposal ("RFP") document and the provisions of the Draft Concession agreement. Kindly requesting you to immediately grant your approval to reword the Para A1 as mentioned above.</p>	<p>The Proposal with reference to reworded para A1 is acceptable to VPT as the same is in line with the requirements of the Concession Agreement of the subject Project.</p>

Not withstanding the clarifications furnished above any thing contrary to the provisions of RFP & DCA documents for the subject project is deemed to be not accepted.

Therefore the necessary incorporation of SPV may be made accordingly and it is once again requested that the Concession Agreement shall be signed on or before 24-6-2010 duly complying the prerequisites as per RFP & DCA.

This may please be treated as MOST URGENT.

Yours faithfully,

SECRETARY &
ATTORNEY OF THE BOARD

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

5th Floor, Bhupati Chambers,
13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

Ref: ABGINFRA/P/2007/05/026/2010
Date: 23rd June, 2010

Secretary & Attorney of the board
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530035
Andhra Pradesh
Ph: 0891-2565289
Fax: 0891-2535023
E-mail: info@vizagport.com

OUTWARD No.: *ABG Infra*
026
DATE : *23/6/10*

Sir,

Sub: "Development of Western Quay -6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling of dry bulk cargo on DBFOT basis"

Ref: Your Letter No. IENG/EE (Projects)/WQ-6/2010/126 dated 6th March 2010

Dear Sir,

We are pleased to inform you that the SPV West Quay Multiport Pvt. Ltd. has been incorporated with the Registrar of Companies, Mumbai with CIN U74900MH2010PTC204755.

We draw your kind attention to your letter cited above wherein you have sent us a Draft Concession Agreement ("DCA") copy through enclosure. The letter also mentions that the Agreement to be signed between the Concessionaire and the Concessioneing Authority shall include the above cited letter, the Tender dated 04-12-2009, Draft Concession Agreement, the RFP documents and connected corrigendum and correspondences exchanged between the two parties in this regard.

We request you to kindly provide us the following:

1. List of all correspondence exchanged between VPT and us that will form a part of the Agreement.
2. A copy of all the connected corrigendum issued by VPT that will form a part of the Agreement.



13 Mathew Road,
Mumbai 400 004, INDIA.
Tel.: +91-22-6656 3000
Fax: +91-22-2364 9236
Email: hq@abginfra.com

3. We have also observed that the DCA has at various places square parentheses ([•]) that need to be completed by VPT or some specific clauses may need to be deleted. It is requested that an amended copy of the DCA in which these changes have been incorporated be provided to us in both soft copy and hard copy.

The above is required by us to complete the square parentheses ([•]) pertaining to us, obtain the approval of our Board and legal department. We request you to provide the above at the earliest so that we can enter into an Agreement without any delay.

We look forward to your early response in this matter.

Thanking You,
Yours Faithfully,
For ABG Infralogistics Ltd.,


Gurpreet Malhi
Chief Executive Officer

Cc : 1. The Dy. Chairman, Visakhapatnam Port Trust
: 2. The Chief Engineer, Visakhapatnam Port Trust







ISO 9001 PORT
ISO 14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/20/
Dt. 24 06-2010.

✓
To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD No. : ABG Infr/087
DATE : 28/6/10

FAX NO. +91-22-23649236

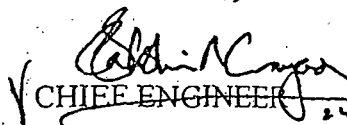
Sir,

Sub: Development of West Quay (WQ.6) berth in the Northern Arm of Visakhapatnam Port for Handling dry bulk cargo on Design, Build, Finance, Operate and Transfer (DBFOT) basis-Reg

Ref: ABG Lr No: ABG/VSP/09-10/016 Date 22.03.2010

With reference to the letter cited, it is to inform that the information sought by you was already made available by VPT during the replies furnished to bidders queries at various stages, and any further information now afresh as available with VPT can be made available to you after the agreement is entered into.

Yours faithfully


CHIEF ENGINEER 24/6/10



Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com





ISO 9001 PORT
ISO 14001 PORT
OHSAS 18001 PORT

No. IENG/EE(Projects)/WQ-6/Vol-XI/313

Dt. 2-07-2010.

To

M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

INWARD No.	: ABG IENG 078
DATE	: 6/7/10

FAX NO., +91-22-23649236

Sir,

Sub: Development of Western Quay (WQ.6) berth in the Northern Arm of
Visakhapatnam Port for Handling dry bulk cargo on Design, Build, Finance,
Operate and Transfer (DBFOT) basis-Reg

Ref: ABG Lr No: ABGINFRA/P/2007/05/026/2010 Date 23.06.2010.

Please refer to your letter cited.

In this regard, it may please be noted that the list of all the correspondence exchanged
between VPT & M/s. ABG Infralogistics Ltd as well as the corrigendum's issued by VPT
are as well available with you, and the same can be enclosed with the DCA.

With regard to the Parentheses i.e., the data that need to be completed by VPT except
the date of the signing of Concession Agreement, all the details are a part of standard
document issued by the Ministry and no changes are envisaged at this stage.

However, in order to save any further delay, please find enclosed herewith, a list of all
correspondence exchanged in connection with the subject Project between VPT and M/s.
ABG Infralogistics Ltd., Mumbai ~~and~~ along with the connected corrigendum issued by
VPT that will form part of contract of the subject Project along with the list of inclusions
in the Draft Concession Agreement (DCA) for filling up the details at your end & return at
an early date so as to enable this office to take necessary further action.

Yours faithfully,

SECRETARY &
ATTORNEY OF THE BOARD

Encl: As above

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

CORRESPONDANCE EXCHANGED BETWEEN M/S ABG IFROLOGISTICS Ltd
AND VPT FOR THE WORK OF WQ 6 BERTH

SL NO	LETTER NO & DATE
1	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/153 Dt. 11-8-09
2	ABG letter No/P425/078/09 Dt. 17-8-09
3	VPT letter No IENG /EE(Proj)WQ 6/Pt.VIII/198 Dt. 8-9-09 Enc Corrigendum-I
4	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/213 Dt. 12-9-09 Enc Corrigendum II
5	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/232 Dt. 30-9-09 Enc Corrigendum III
6	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/262Dt. 16-10-09 Enc Statement each Along with Enclosures
7	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/271 Dt. 23-10-09 Enc Corrigendum IV
8	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/279Dt. 27-10-09 Enc Corrigendum V
9	VPT letter No IENG /EE(Proj)WQ 6Pt.VIII/303Dt 9-11-09
10	VPT letter No IENG /EE(Proj)WQ 6Pt.IX/326 Dt26-11-09 Enc Corrigendum VI
11	ABG letter No/P425/145/09 Dt. 4-12-09
12	ORIGINAL Bid Submitted by ABG Dt. 4-12-09
13	ABG letter No/P425/150/09 -10 Dt. 8-12-09
14	VPT letter No IENG /EE(Proj)WQ 6/Pt.IX/344 Dt 8-12-09
15	VPT letter No IENG /EE(Proj)WQ 6/Pt.IX/391 Dt 28-12-09
16	ABG letter No/P425/10 Dt. 4-1-10
17	VPT letter No IENG /EE(Proj)WQ 6/2010/45 Dt18-1-10
18	ABG letter No/P425/191/2010 Dt 23-1-10
19	VPT letter No IENG /EE(Proj)WQ 6/2010/77 Dt.4-2-10
20	ABG letter No/P425/204/2010 Dt 4-2-10
21	ABG letter No/P425/213/2010 Dt 15-2-10
22	ABG letter No/P425/215/2010 Dt 17-2-10
23	ABG letter No/P425/231/2010 Dt 26-2-10
24	ABG letter No/P425/239/2010 Dt 5-3-10
25	VPT letter No IENG /EE(Proj)WQ 6/2010/126 Dt.6-3-10
26	VPT letter No IENG /EE(Proj)WQ 6/2010/135 Dt.10-3-10
27	ABG letter No/P425/243/2010 Dt 15-3-10
28	VPT letter No IENG /EE(Proj)WQ 6/vol 10/160 Dt.25-3-10
29	VPT letter No IENG /EE(Proj)WQ 6/vol XI/201 Dt.19-4-10
30	VPT letter No IENG /EE(Proj)WQ 6/vol XI Dt.24-4-10
31	ABG letter No ABGINFRA/P/2007/05/006//2010 Dt 22-4-10
32	ABG letter No ABGINFRA/P/2007/05/007//2010 Dt 24-4-10
33	VPT letter No IENG /EE(Proj)WQ 6/vol XI/245 Dt.17-5-10 Encl: Annexure
34	ABG letter No ABGINFRA/P/2007/05/010/2010 Dt 21-5-10
35	ABG letter No ABGINFRA/P/2007/11/007//2010 Dt 21-5-10
36	VPT letter No IENG /EE(Proj)WQ 6/vol XI/253 Dt.22-5-10

37	ABG letter No ABG/VPT /WQ6/P02 Dt.22-5-10
38	VPT letter No IENG /EE(Proj)WQ 6/vol XI/259 Dt.25-5-10
39	ABG letter No ABGINFRA/P/2008/10/012//2010 Dt 28-5-10
40	VPT letter No IENG /EE(Proj)WQ 5/vol XI/251 Dt.29-5-10
41	ABG letter No ABGINFRA/P/2007/05/015//2010 Dt 1-6-10
42	ABG letter No ABGINFRA/P/2007/05/017//2010 Dt 2-6-10
43	ABG letter No ABGINFRA/P/2007/05/018//2010 Dt 7-6-10
44	VPT letter No IENG /EE(Proj)WQ 6/vol XI/278 Dt.10-6-10
45	ABG letter No ABG/VPT /WQ6/P03 Dt.11-6-10
46	VPT letter No IENG /EE(Proj)WQ 6/vol XI/279 Dt.11-6-10
47	ABG letter No ABGINFRA/P/2007/05/022//2010 Dt17-6-10
48	VPT letter No IENG /EE(Proj)WQ 6/vol XI/292 Dt.19-6-10
49	ABG letter No ABGINFRA/P/2007/05/026//2010 Dt22-6-10




VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

Annexure

Name of work: Development of WQ-6 Berth in the Northern Arm of Inner harbour of Visakhapatnam Port for Handling Dry Bulk Cargo on "DBFOT" Basis:-

List of inclusions / gap filling in the concession agreement:

SLNO	Reference /agreement page	Clause	Gap filled by VPT(Shown in bold & underlined)
1	10	Bid security	Bank Guarantee <u>0106IPEBG100280</u> Dated <u>28-05-2010</u>
2	11	Consortium	<u>Not Applicable</u>
3	14	Management contract	<u>Not Applicable</u>
4	14	Management contractor	<u>Not Applicable</u>
5	17	Supporting project Infrastructure	a) Maritime access channels & port entrance the entrance channel to the outer harbour is 200m wide and dredged to a depth of 20m . The entrance channel to the inner harbour is dredged to a depth of <u>(-)11.80 / (-)12.10m. initially and (-) 13.50m & (-) 16.10m in phases in future as per the deepening plans of the Concessioning authority</u>
6	25	<u>Article:3</u> <u>3.1(a)/(v)</u>	<u>Not Applicable</u>
7	89	<u>Article:21</u> <u>21.11</u> <u>3rd para</u>	<u>Resolution119/2009-10/dated 16-12-2009 of the board</u>
8	132	<u>Appendix 9</u> <u>a) and b)</u>	a) Request for proposal dated 12-08-2009 b) issued the letter of intent no <u>IENG/EE(Projects)/WQ-6/2010/45</u> dated 18-01-2010 ("LOI")
9	142	<u>Appendix 15</u> <u>1 Gross berth Output</u>	Weightage in case of a short fall in the meeting the prescribed performance standard- <u>70%</u>
	143	<u>Appendix 15</u> <u>2(b) Break bulk cargo</u>	Weightage in case of a short fall in the meeting the prescribed performance standard- <u>20%</u>
	143	<u>Appendix 15</u> <u>3 turn around time for receipt / delivery operation</u>	Weightage in case of a short fall in the meeting the prescribed performance standard- <u>10%</u>

72-457

The following drawings, which were annexures of letter no. IENG/EE(PROJECTS)/WQ 6/Pt. VIII/262 dated 19th October 2010, form a part of the Concession Agreement between the Board of Trustees for Visakhapatnam Port Trust & West Quay Multiport Private Limited for "Development of WQ-6 Berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling Dry Bulk Cargo on DBFOT basis".

1. Annexure 1 (AutoCAD Drawing) provided in the replies to the queries raised by the bidders.
2. Annexure 2 (AutoCAD Drawing) provided in the replies to the queries raised by the bidders.
3. Annexure 3 (Layout of proposed stacking area road connectivity for WQ6 Berth) provided in the replies to the queries raised by the bidders.
4. Annexure 9 (AutoCAD Drawing) provided in the replies to the queries raised by the bidders.



*Original Bid submitted by M/s ABC Infrastructures Ltd.
on 8th December 2009*

Request for Proposal

For

PPP Project

DEVELOPMENT OF WESTERN QUAY (WQ-6) BERTH IN
THE NORTHERN ARM OF INNER HARBOUR OF
VISAKHAPATNAM PORT FOR HANDLING DRY BULK
CARGO ON DESIGN, BUILD, FINANCE, OPERATE AND
TRANSFER (DBFOT) BASIS

Submitted on

4th December 2009, 10:32 AM



***Letter Comprising the Bid
(Appendix-I)***



APPENDIX – I
Letter comprising the Bid
(Refer Clauses 2.1.5 and 2.14 of the RFP)

Dated: 03.12.2009

The Chief Engineer,
Visakhapatnam Port Trust,
Visakhapatnam – 530 035

Sub: Bid for development of Western Quay (WQ-6) berth in the Northern Arm of Inner harbour of Visakhapatnam port for handling dry bulk cargo Project on DBFOT basis

Dear Sir,

1. With reference to your RFP document dated 11.08.2009, we, having examined the Bidding Documents and understood their contents, hereby submit our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. All information provided in the Bid and in the Appendices is true and correct.
3. This statement is made for the express purpose of qualifying as a Bidder for the project "Development of Western Quay (WQ-6) berth in the Northern Arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis.
4. We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and we hereby waive our right to challenge the same on any account whatsoever.
6. We certify that in the last three years, we have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. We declare that:
 - (a) We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority.
 - (b) We do not have any conflict of interest in accordance with Clauses 2.1.14 and



2.1.15 of the RFP document;

- (c) We have not directly or indirectly or through an agent engaged or in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
- (d) We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project; may cancel without incurring any liability to the Bidders, in accordance with Clause 2.6 of the RFP document.
9. We believe that we satisfy the Net Worth criteria and meet the requirements as specified in the RFQ document and are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the Government vide Department of Disinvestment OM No. 6/4/2001 – DD-II dated 13th July, 2001 which guidelines apply mutatis mutandis to the Bidding Process.
10. We declare that we are not a Member of a/any other Consortium submitting a Bid for the Project.
11. We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or have adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.



12. We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
13. We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors / Managers / employees.
14. We further certify that we are qualified in terms of additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated 13th July, 2001, a copy of which forms part of the RFP at Appendix-V thereof.
15. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.
16. We acknowledge that our Consortium / proposed Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who will own at least 26% of the equity of the Concessionaire and undertake that each of such Consortium Members shall continue to hold at least 26% of the equity of the Concessionaire until the Commercial Operation Date of the Project is achieved under and in accordance with the provisions of the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.
17. We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and / or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, we shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.



18. We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956, or shall incorporate itself as such prior to execution of the Concession Agreement.
19. We hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
20. In the event of our being declared as the Selected Bidder, We agree to enter into a Concession Agreement in accordance with the draft that has been provided to us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
21. We have studied all the Bidding Documents carefully and also surveyed the Project Site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Bidding Process including the award of Concession.
22. The Gross Revenue Share has been quoted by us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the Bid.
23. We offer a Bid Security of Rs. 11.45 (Rupees Eleven decimal four five only) million to the Authority in accordance with the RFP Document.
24. The Bid Security in the form of a Demand Draft / Bank Guarantee is attached.
25. We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to us or our Bid is not opened.

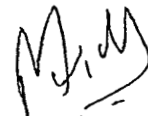


Page 4 of 5

26. We hereby submit our Bid and offer a Gross Revenue Share in the form of 47.17 per cent (Forty Seven point One Seven per cent in words) for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement.
27. We agree to keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.
28. We agree and undertake to abide by all the terms and conditions of the RFP document.

In witness thereof, we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,



Mridul Muralidharan
Manager



Name and seal of Bidder
ABG Infralogistics Ltd.

Date: 03.12.2009

Place: Mumbai

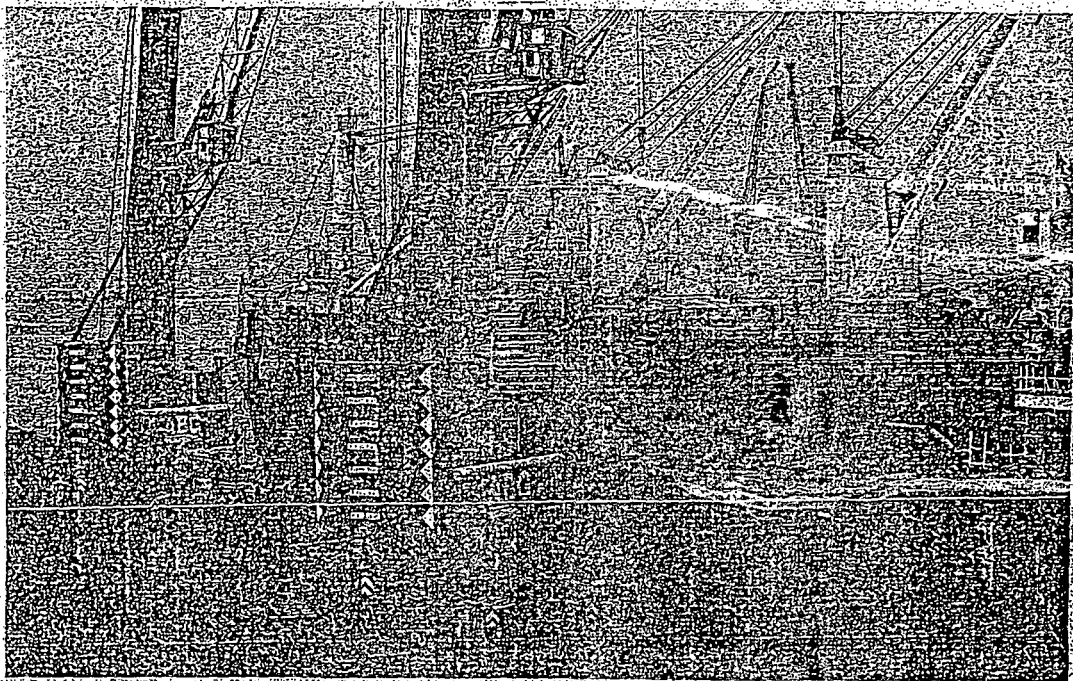


"Copy of Documents"

ATTN. OF: Mr.K.Ramachandra Rao
Designation: Chief Engineer
Address:
Visakhapatnam Port Trust,
Visakhapatnam-530 035,
Andhra Pradesh, India.

Telephone: +91-891-2565289
Email: info@vizagport.com
Fax No. +91-891-2565023

"Bid for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis"



A handwritten signature in black ink, appearing to be "S.M." or similar.

Submitted by:
ABG Infralogistics Ltd.
5th Floor, Bhupati Chambers,
13 Mathew Road, Opera House,
Mumbai - 400 004

A large, stylized handwritten signature in black ink, possibly "K" or "J" followed by a long horizontal stroke.

Bid for the development of Western Quay-6 (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT Basis

By ABG Infralogistics Ltd.

Content Page


Sr. No. Items

COPY OF DOCUMENTS


- a) Copy of Bid Security in the prescribed format (Appendix-II)
- b) Copy of Power of Attorney for signing of Bid in the prescribed format (Appendix-III)
- c) Copy of Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Sr. No. (b) hereinabove
- d) Copies of RFP, Feasibility Report and Correspondences initialled on each page towards acceptance in toto



a) Bid Security in the prescribed format (Appendix-II)



A handwritten signature in black ink, appearing to be 'S. M.', is written on a textured, light-colored background.



A handwritten signature in black ink, appearing to be 'M.', is written on a textured, light-colored background.



Ref: ICBK/CIBD/BBR/2009-10/BG/0393BG00189209

December 02, 2009

To
VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM,
ANDHRA PRADESH, INDIA

Sub:-Issuance of Bank Guarantee Amendment

Dear Sir,

Please find attached Bank Guarantee issued by us favouring yourselves on behalf of
'ABG Infralogistics Limited

Details are as under.

Bank Guarantee No. & Date of Issue	Expiry Date	Claim Expiry Date	Amount of Bank Guarantee
0393BG00189209 Dated 06.11.2009 Amendment Date 02.12.2009	03.06.2010	03.06.2010	INR 1,14,50,000.00

We confirm that the officials who have signed the above bank guarantee are authorized to sign such documents on behalf of ICICI Bank Limited. You may verify the genuineness of the guarantee from our bank.

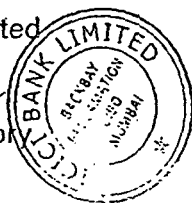
In case of the invocation of the bank guarantee, the original bank guarantee & all subsequent amendments should be submitted at the counters of the branch.

Thanking you,

Yours faithfully,

For ICICI Bank Limited

Authorized Signatory



ICICI Bank Limited
ICICI Bank Center
163, H. T. Parekh Marg
Backbay Reclamation

Tel. : (022) 6653 8700
Fax : (022) 6653 8855

Website: www.icicibank.com

Regd. Office : "Landmark", Race Course Circle
Vadodara 390007.
Corp. Office : ICICI Bank Towers, Bandra-Kurl
Complex, Mumbai 400051, Indi

Sr. No.

423593

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



B.G. Number: 0393BG00189209

Amendment Date: 02.12.2009

- 1 To,
2 VISAKHAPATNAM PORT TRUST
3 VISAKHAPATNAM, ANDHRA PRADESH, INDIA
4 Sub : Amendment to Bank Guarantee No 0393BG00189209 Dtd 06-11-2009 for Rs. 1,14,50,000.00

- 5 At the request of 'ABG Infralogistics Limited'. We hereby amend above mentioned Bank
6 Guarantee as follows:

- 7 1. The validity of the bank guarantee is extended up to 03.06.2010

- 8 All other terms and conditions of the original Bank Guarantee remain unchanged. This letter forms an integral part of the original guarantee referred above and may be kept attached thereto.

- 10 Notwithstanding anything contained here in above,
11 1) Our liability under this Bank guarantee shall not exceed Rs. 1,14,50,000.00 (Rupees One Crore
12 Fourteen Lacs Fifty Thousand Only)
13 2) This Bank Guarantee shall be valid up to 03.06.2010
14 3) We shall be liable to pay any amount under this Bank guarantee or part thereof only if we
15 receive a written claim or demand under this guarantee on or before 03.06.2010 at ICICI Bank Ltd.

- 16 Place : Mumbai
17 Date : 02.12.2009

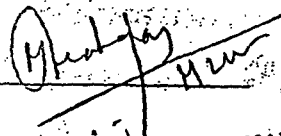
- 18 For ICICI BANK LIMITED

- 19 Authorised Signatories

- 20 Signature : 

- 21 Name : Ashwini Kadam
K 1341

- 22 Signature Code:

Signature : 

Name : MOHIT MAHAJAN
MANAGER

Signature Code: M 2222

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020

Page 1 of 1

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporateservice@icicibank.com

Regd. Office: "Landmark", Race Course Circle, Vadodara-390 007. Phone : 0265-2339923-25 Fax: 0265-2339926
E-mail: corporateservice@icicibank.com SWIFT : ICIC IN BB

353

For IDBI BANK LTD.

Authorised Signatory

Industrial Development Bank of
India Ltd. Mittal Court 'A' Wing,
2nd Floor, Nariman Point,
Mumbai-400021.

D-5/STP(V)/C.R.1007/03/05/1029-1032

This Forms an Integral
Bank Guarantee
Issued By ICICI Bank Limited

भारत 36786
192500



INDIA

SPECIAL ADHESIVE
महाराष्ट्र
NOV 26 2009

14:06

R.0000100/-PB5280

STAMP DUTY MAHARASHTRA

03988500189209 - Date - 06.11.2009

Amendment Date - 02.12.2009

For ICICI BANK LIMITED

Akshay
Bhat

Authorised Signatory

ICICI BANK LIMITED
ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

[Handwritten signature]

[Handwritten signature]



TO,

Mr. K. Ramachandra Rao,
Chief Engineer,
Visakhapatnam Port Trust,
Visakhapatnam-530035,
Andhra Pradesh,
India

We dispatched a BG on behalf of ABG Infralogistics Ltd, by a registered post no 4093 dated 09/11/2009 on above address.
Please acknowledge the same.

For ICICI Bank

Ukadaw
KSU

Authorised Signatories

भारतीय डाक विभाग
DEPARTMENT OF POSTS
प्राप्ति स्वीकृति/ACKNOWLEDGEMENT

आर.पी.-54
R.P.-54

L3/A-B/08-09/PSD/MB/IRoman

* अनावश्यक को काट दिया जाए
* Strike out if not relevant

रजिस्ट्री-पत्र/पार्सल प्राप्त हुआ
Received Registered Letter/Parcel/

क्रमांक/No. ५०९३ तारीख/Dated ०९/११/०५ का/of

* बीमे का मूल्य रुपये में

* Insured for Rupees

पोने वाले Mr. K. Ramechandra Rao Chief

Addressed to Engineer Visaksha Padmanabam

Post Visaksha Padmanabam - 530035

को/on Anthore post office - 530035

वितरण डाकघर की तारीख-मोहर
Date stamp of office of delivery

हस्ताक्षर और नाम/Signature and Name

RECEIVED
TELETYPE UNIT
11/11/05



Handwritten signature/initials.



Ref:ICICI/CIBD/BBR/2009-10/BG/0393BG00189209

November 06, 2009

To
Visakhapatnam Port Trust,
Visakhapatnam,
Andhra Pradesh,
India

Sub:-issuance of Bank Guarantee

Dear Sir,

Please find attached Bank Guarantee issued by us favoring yourselves on behalf of
ABG Infralogistics Ltd. 5th Floor, Bhupati Chambers, 13 Mathew Road, Mumbai - 400004

Details are as under.

Bank Guarantee No. & Date of Issue	Expiry Date	Claim Expiry Date	Amount of Bank Guarantee
0393BG00189209 dated 06.11.2009	09.05.2010	09.05.2010	INR 1,14,50,000.00

We confirm that the officials who have signed the above bank guarantee are authorized to sign such documents on behalf of ICICI Bank Limited. You may verify the genuineness of the guarantee from our bank.

Thanking you,

Yours faithfully,
For ICICI Bank Limited

Authorized Signatory



ICICI Bank Limited
ICICI Bank Center
163, H. T. Parekh Marg
Beckbay Reclamation
Churchoate, Mumbai 400 020

Tel. : (022) 6653 8700
Fax : (022) 6653 8855
Website www.icicibank.com

Regd. Office : "Landmark", Race Course (Vadodara 390007).
Corp. Office : ICICI Bank Towers, Bandra Complex, Mumbai 400051

Industrial Development Bank of
India Ltd. Mutual Court 'A' Wing,
2nd Floor, Nariman Point,
Mumbai-400021.

D-5/STP/M/C R-1007/03/05/1029-1032
For IDBI BANK LTD.

भारत 05813
173502



SPECIAL
ADHESIVE महाराष्ट्र
OCT 26 2009

10:30

R.0000100/-PB5280

INDIA STAMP DUTY MAHARASHTRA

Authorised Signatory
This Forms an Integral Part of
Bank Guarantee
Issued By ICICI Bank Limited

0393 B4-00189209 dt. 06/11/09

For ICICI BANK LIMITED

Shadun
4201

Rachael
3201

Authorised Signatory

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

[Signature]

[Signature]

Sr. No.

422984

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



B.G. Number: 0393BG00189209

ISSUE Date: 06.11.2009

1 APPENDIX - II.

2 Bank Guarantee for Bid Security

3 (Refer Clauses 2.1.7 and 2.20.1)

4 B.G. No. 0393BG00189209

Dated: 06.11.2009

5 1. In consideration of you, Visakhapatnam Port Trust, having its office at Visakhapatnam,
6 Andhra Pradesh, India, (hereinafter referred to as the "Authority", which expression shall
7 unless it be repugnant to the subject or context thereof include its, successors and assigns)
8 having agreed to receive the Bid of ABG Infralogistics Ltd. [a Company registered under
9 provision of the Companies Act, 1956] and having its registered office at 5th Floor, Bhupati
10 Chambers, 13 Mathew Road, Mumbai - 400004 [and acting on behalf of its Consortium]
11 (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the
12 subject or context thereof include its/their executors administrators, successors and
13 assigns), for the development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
14 Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis
15 (hereinafter referred to as "the Project") pursuant to the RFP Document dated 11.08.2009
16 issued in respect of the Project and other related documents (hereinafter collectively
17 referred to as "Bidding Documents"), we ICICI Bank Ltd. having our registered office at
18 Landmark, Race Course Circle, Vadodra 390 007 and one of our branches at ICICI
19 CENTER 163, HT Parekh Marg, Backbay Reclamation, Churchgate, Mumbai 400020
20 (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of
21 Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and
22 without reservation guarantee the due and faithful fulfilment and compliance of the terms
23 and conditions of the Bidding Documents (including the RFP Document) by the said Bidder
24 and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount
25 of Rs. 11.45 Million (Rupees Eleven decimal four five million only) as bid security

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

For ICICI BANK LIMITED

Page 1 of 5

Authorised Signatory

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341861.
E-mail: corporatecare@icicibank.com

Regd. Office: "Landmark", Race Course Circle, Vadodra-390 007. Phone : 0265-2339923-25 Fax: 0265-233
E-mail: corporatecare@icicibank.com SWIFT : ICIC IN BB

365

Sr. No. 422985

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



ICICI Bank

BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

26 (hereinafter referred to as the "Bid Security") as our primary obligation without any demur,
27 reservation, recourse, contest or protest and without reference to the Bidder if the Bidder
28 shall fail to fulfill or comply with all or any of the terms and conditions contained in the said
29 Bidding Documents.

30 2. Any such written demand made by the Authority stating that the Bidder is in default of the
31 due and faithful fulfilment and compliance with the terms and conditions contained in the
32 Bidding Documents shall be final, conclusive and binding on the Bank.

33 3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable
34 under this Guarantee without any demur, reservation, recourse, contest or protest and
35 without any reference to the Bidder or any other person and irrespective of whether the
36 claim of the Authority is disputed by the Bidder or not merely on the first demand from the
37 Authority stating that the amount claimed is due to the Authority by reason of failure of the
38 Bidder to fulfil and comply with the terms and conditions contained in the Bidding
39 Documents including failure of the said Bidder to keep its Bid open during the Bid validity
40 period as set forth in the said Bidding Documents for any reason whatsoever. Any such
41 demand made on the Bank shall be conclusive as regards the amount due and payable by
42 the Bank under this Guarantee. However, our liability under this Guarantee shall be
43 restricted to an amount not exceeding Rs. 11.45 million (Rupees Eleven decimal four five
44 Million only).

45 4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one
46 hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty)
47 days or for such extended period as may be mutually agreed between the Authority and
48 the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

For ICICI BANK LIMITED

Page 2 of 5

Shadur
Trsu

Michael
Jain

Authorized Signatory

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

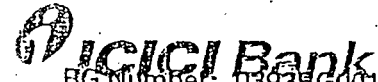
Regd. Office: "Landmark", Race Course Circle, Vadodra-390 007. Phone : 0265-2339923-25 Fax: 0265-233992
E-mail: corporatecare@icicibank.com SWIFT : ICIC IN BB

Sr. No. 422986

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

49 under this Guarantee have been paid.

50 5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to
51 whether the Bidder is in default of due and faithful fulfilment and compliance with the
52 terms and conditions contained in the Bidding Documents including, inter alia, the failure of
53 the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding
54 Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall
55 be final and binding on us, notwithstanding any differences between the Authority and the
56 Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

57 6. The Guarantee shall not be affected by any change in the constitution or winding up of the
58 Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank
59 with any other person or entity.

60 7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank
61 as the principal debtor. The Authority shall have the fullest liberty without affecting in any
62 way the liability of the Bank under this Guarantee from time to time to vary any of the terms
63 and conditions contained in the said Bidding Documents or to extend time for submission
64 of the Bid or the Bid validity period or the period for conveying acceptance of Letter of
65 Award by the Bidder or the period for fulfilment and compliance with all or any of the terms
66 and conditions contained in the said Bidding Documents by the said Bidder or to postpone
67 for any time and from time to time any of the powers exercisable by it against the said
68 Bidder and either to enforce or forbear from enforcing any of the terms and conditions
69 contained in the said Bidding Documents or the securities available to the Authority, and
70 the Bank shall not be released from its liability under these presents by any exercise by the
71 Authority of the liberty with reference to the matters aforesaid or by reason of time being

ICICI BANK LIMITED

ICICI CENTRE,
103, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Page 3 of 5

For ICICI BANK LIMITED

Shadav
Trsu
Nachal
Authorized Signatory

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

Regd. Office: " Landmark", Race Course Circle, Vadodra-390 007. Phone : 0265-2339923-25 Fax: 0265-23399
E-mail: corporatecare@icicibank.com SWIFT : ICIC IN BB

369

Sr. No. 422987

BANK GUARANTEE

ICICI Bank Limited

(Incorporated in India)



ICICI Bank

BG Number: 0393BG00189209

ISSUE Date: 06.11.2009

72 given to the said Bidder or any other forbearance, act or omission on the part of the
73 Authority or any indulgence by the Authority to the said Bidder or by any change in the
74 constitution of the Authority or its absorption, merger or amalgamation with any other
75 person or any other matter or thing whatsoever which under the law relating to sureties
76 would but for this provision have the effect of releasing the Bank from its such liability.

77 8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or
78 made if addressed to the Bank and sent by courier or by registered mail to the Bank at the
79 address set forth herein.

80 9. We, the Bank undertake to make the payment on receipt of your notice of claim on us
81 addressed to ICICI Bank Ltd., ICICI CENTER 163, HT Parekh Marg, Backbay Reclamation,
82 Churchgate, Mumbai- 400020 and delivered at our above branch who shall be deemed to
83 have been duly authorised to receive the said notice of claim.

84 10. It shall not be necessary for the Authority to proceed against the said Bidder before
85 proceeding against the Bank and the guarantee herein contained shall be enforceable
86 against the Bank notwithstanding any other security which the Authority may have
87 obtained from the said Bidder or any other person and which shall, at the time when
88 proceedings are taken against the Bank hereunder, be outstanding or unrealised.

89 11. We, the Bank, further undertake not to revoke this Guarantee during its currency except
90 with the previous express consent of the Authority in writing.

91 12. The Bank declares that it has power to issue this Guarantee and discharge the obligations
92 contemplated herein, the undersigned is duly authorised and has full power to execute this

ICICI BANK LIMITED

ICICI CENTRE,
163, H. T. PAREKH MARG,
BACKBAY RECLAMATION,
CHURCHGATE, MUMBAI - 400 020.

Regd. Office: Landmark, Race Course Circle, Vadodra-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatescare@icicibank.com

Page 4 of 5

For ICICI BANK LIMITED


Shadown
12/11/09

Michael
12/11/09

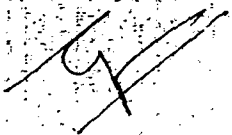
Authorized Signatory

6)

*Power of Attorney for signing of Bid in the prescribed
format (Appendix-III)*

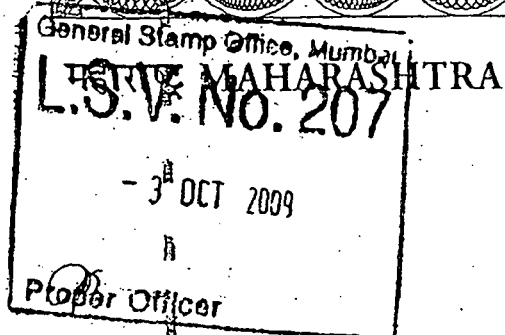
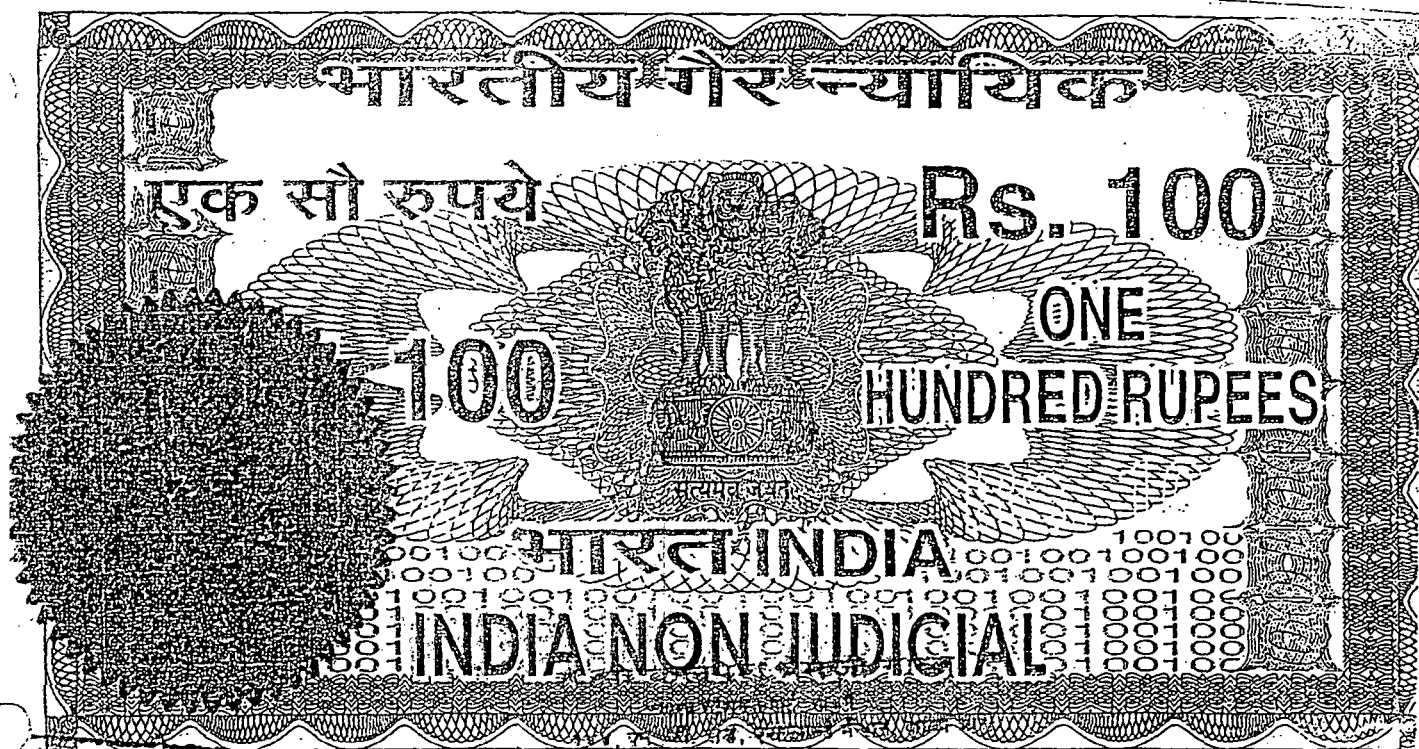


A handwritten signature in black ink, appearing to be 'S. M.', written over a textured, grainy background.



3707

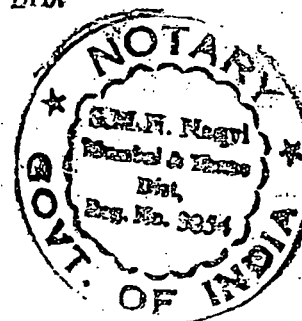
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SHRI K. R. MADGE

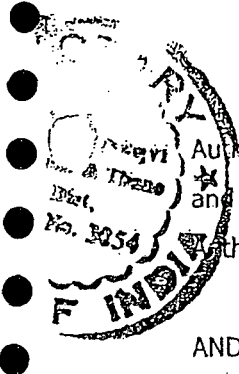
परवानाधारक मुद्रांक विक्रेता
परवाना क्रमांक नं. २०७ - 9 OCT 2009 CG 844075
533
ABG INFRA LOGISTICS LTD.
M/S/Mrs/Mr.
कंपनी नमूने पर मुद्रांक क्या दिजल
प्रमाणित मुद्रांक विक्रेता

APPENDIX - III



Power of Attorney for signing of Bid (Refer Clause 2.1.9)

Know all men by these presents, We, ABG Infralogistics Ltd. having its registered office at 5th floor, Bhupati Chambers, 13 Mathew Road, Mumbai - 40004 do hereby irrevocably constitute, nominate, appoint and authorise Mr. Mridul Muralidharan son of Mr. K P Muralidharan and presently residing at H-1002, Akruti Orchid Park, Saki Naka, Andheri (E), Mumbai - 400072, who is presently employed with us and holding the position of Manager, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner harbour of Visakhapatnam port for handling dry bulk cargo Project on DBFOT basis proposed or being developed by the Visakhapatnam Port Trust (the "Authority") including but not limited to signing and submission of all applications, bids and other documents and writings, participating in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the



Authority in all matters in connection with or relating to or arising out of our bid for the said Project and / or upon award thereof to us and / or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ABG INFRALOGISTICS LTD., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS 7th DAY OF NOVEMBER, 2009.

For ABG INFRALOGISTICS LTD.

S. Agarwal

Saket Agarwal
Managing Director
5th Floor, Bhupati Chambers,
13 Mathew Road, Mumbai - 40004

Witnesses:

1. Mr. C Babu Rajeev
2. Mr. Santosh Hiredesai

[Signature]

[Signature]

Accepted

[Signature]

Mridul Muralidharan
Manager
H-1002, Akruti Orchid Park
Saki Naka, Andheri (E)
Mumbai - 400072

EXPLAINED & IDENTIFIED BY ME

[Notarised]

Mr. ZAKIR A. B.
B.A., LL.B.

Advocate, High Court (O.S.), Mumbai
(Regn. No. 761 of 76 Dt. 13-10-1978)
Enrolment No. 817/MAH/78 Dt. 7-10-78
Q. B. R. St., Byculla, Mumbai 400 098
Telephone No. 22086627

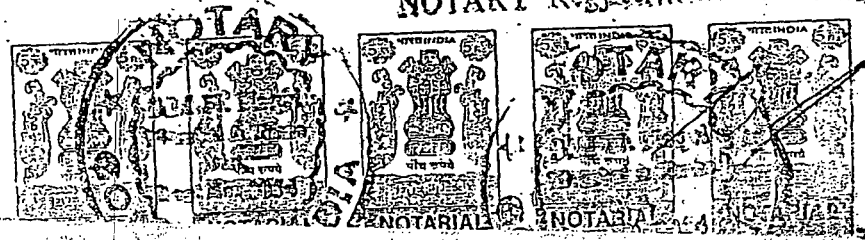
BEFORE ME

[Signature]
7-11-

S. M. N. Naqvi
NOTARY

Government of India
Mumbai & Thane Dist

S. No. 366 P. No. 15
NOTARY Register...



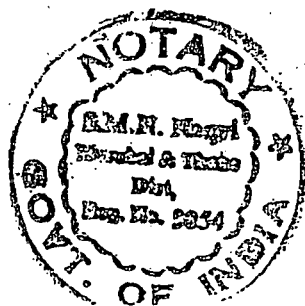


Notes:

☐ The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

☐ Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution / power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

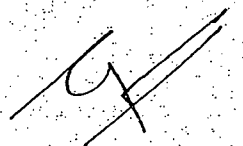
☐ For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.



c) Power of Attorney for Lead Member of Consortium in the prescribed format (Appendix-IV) – NOT APPLICABLE



d) Copy of the Concession Agreement with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause 2.11.2 (b) in the RFP document

A handwritten signature in black ink, appearing to be 'J. King' or similar, written on a textured background.A handwritten signature in black ink, appearing to be 'G. King' or similar, written on a textured background.

CONCESSION AGREEMENT

BETWEEN

BOARD OF TRUSTEES FOR VISAKHAPATNAM PORT
(THE CONCESSIONING AUTHORITY)

AND

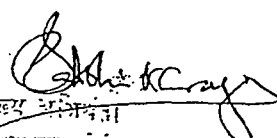
..... LTD.
(THE CONCESSIONAIRE)


FOR

WQ-6 BERTH IN THE NORTHERN ARM OF INNER HARBOUR OF
VISAKHAPATNAM PORT FOR HANDLING DRY BULK CARGO ON DBFOT
BASIS

DATED




मुख्य अभियंता
विशाखपट्टणम पोर्ट ट्रस्ट
CHIEF ENGINEER
Visakhapatnam Port Trust



CONCESSION AGREEMENT

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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is made at Visakhapatnam, Andhra Pradesh on this the day of 2009

BETWEEN:

1. BOARD OF TRUSTEES for VISAKHAPATNAM PORT, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at Visakhapatnam, Andhra Pradesh, India, hereinafter referred to as "the Concessioneing Authority" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

AND

2. _____ LIMITED, a company registered under the Companies Act, 1956, and having its registered office at _____ hereinafter referred to as "the Concessionaire" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

WHEREAS:

- (A) The Concessioneing Authority is desirous of implementing a Project (as defined hereinafter) for planning, engineering, designing, finance, construction, development, operation & maintenance of WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo like C.P.Coke, LAM Coke, Steel and Granite blocks on DBFOF basis through private sector participation;
- (B) In or about May 2008, the Concessioneing Authority invited applications from the interested parties in accordance with the Request for Qualification (as defined hereinafter), to shortlist competent parties that can subsequently bid for the Project;
- (C) In response to the invitation referred to in recital 'B' above, the Concessioneing Authority received applications from various parties including the application dated 31.07.2008 submitted by the Applicant / Consortium in accordance with the Request for Qualification;
- (D) The Concessioneing Authority, after evaluating all the applications, short-listed 6 (Six) number of applicants including the Applicant / Consortium and invited proposals from them in accordance with the Request for Proposal (as defined hereinafter), for implementing the Project;
- (E) In response to the Request for Proposal, the Concessioneing Authority received proposals from the shortlisted applicants including the one submitted by the Applicant / Consortium;
- (F) The Concessioneing Authority, after evaluating all the proposals received by it from the shortlisted applicants, accepted the proposal referred to in recital "E"

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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is made at Visakhapatnam, Andhra Pradesh on this the day of 2009

BETWEEN:

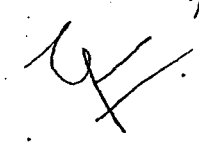
1. BOARD OF TRUSTEES for VISAKHAPATNAM PORT, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at Visakhapatnam, Andhra Pradesh, India, hereinafter referred to as "the Concessioneing Authority" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

AND

2. _____ LIMITED, a company registered under the Companies Act, 1956, and having its registered office at _____ hereinafter referred to as "the Concessionaire" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns).

WHEREAS:

- (A) The Concessioneing Authority is desirous of implementing a Project (as defined hereinafter) for planning, engineering, designing, finance, construction, development, operation & maintenance of WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo like C.P.Coke, LAM Coke, Steel and Granite blocks on DBFOT basis through private sector participation;
- (B) In or about May 2008, the Concessioneing Authority invited applications from the interested parties in accordance with the Request for Qualification (as defined hereinafter), to shortlist competent parties that can subsequently bid for the Project;
- (C) In response to the invitation referred to in recital 'B' above, the Concessioneing Authority received applications from various parties including the application dated 31.07.2008 submitted by the Applicant / Consortium in accordance with the Request for Qualification;
- (D) The Concessioneing Authority, after evaluating all the applications, short-listed 6 (Six) number of applicants including the Applicant / Consortium and invited proposals from them in accordance with the Request for Proposal (as defined hereinafter), for implementing the Project;
- (E) In response to the Request for Proposal, the Concessioneing Authority received proposals from the shortlisted applicants including the one submitted by the Applicant / Consortium;
- (F) The Concessioneing Authority, after evaluating all the proposals received by it from the shortlisted applicants, accepted the proposal referred to in recital "E"


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above submitted by the Applicant / Consortium and communicated its acceptance to the Applicant / Consortium vide Letter of Intent for Award of Concession dated _____;

- (G) The Applicant / Consortium has / have incorporated the Concessionaire as a special purpose company in India, under the Companies Act, 1956 to implement the Project;
- (H) Following the issue of the Letter of Intent for Award of Concession, the Concessioning Authority has agreed to grant the Concession to the Concessionaire to implement the Project on the terms, conditions and covenants hereinafter set forth in this Agreement.



NOW, THIS AGREEMENT WITNESSETH AS FOLLOWS: ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires the following terms shall have the following meanings assigned/ascribed thereto:

"Actual Project Cost" means the actual capital cost incurred by the Concessionaire on the Project and / or the Project Facilities and Services as certified by the Statutory Auditor and if the same exceeds the Estimated Project Cost and / or does not form part of the Financing Plan submitted prior to Financial Close; the amount of the Estimated Project Cost or in the Financing Plan as the case may be increased by the amount(s) approved in writing by the Concessioneing Authority.

"Additional Auditor" has the meaning ascribed to it in Article 9.4.

"Additional Cost" means the additional capital expenditure which the Concessionaire has or would be required to incur and which has arisen as a result of Change in Law.

"Affiliate" means, with respect to any Party and / or with respect to the Applicant and / or with respect to any member of Consortium, any other Person directly or indirectly controlling, controlled by or under common control with such Party, Applicant and / or member of Consortium. For the purposes of this definition, the term "control" (including with correlative meaning, the terms "controlled by" and "under common control with") as applied to any Party or Applicant or a member of Consortium, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Party or Applicant or a member of Consortium whether through ownership of 50 (fifty) % or more of the voting securities, by contract, or otherwise.

"Agreement" means this agreement as of date hereof, including Appendices 1 through 16 as may be amended, supplemented or modified in accordance with the provisions hereof.

"Appendix" means the schedules, supplements or documents, appended to this Agreement.

"Applicable Laws" means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including statutes, rules, regulations, directions, bye-laws, notifications, ordinances and judgments having force of law, or any final interpretation by a Court of Law having jurisdiction over the matter in question as may be in force and effect during the subsistence of this Agreement.

"Applicable Permits" means any and all permissions, clearances, licenses, authorizations, consents, no-objections, approvals and exemptions under or

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pursuant to any of the Applicable Laws or from any Government Authority required in connection with the Project and for undertaking, performing or discharging the obligations contemplated by this Agreement or any other Transaction Document.

"Applicant" means [•]².

"Access / Entrance channel": The waterway that gives access or passage to harbour, channels, berths etc. Visakhapatnam Port has an Outer entrance channel, which is located on the east side of the breakwaters. Vessels bound for WQ-6 berth utilize the same channel including Outer Turning Basin, Inner Channel, Inner Turning Basin and Northern Arm of Port Waterways.

"Bid" means the proposal and the entire set of documents submitted by the Applicant and / or the Consortium in response to the RFQ and the RFP.

"Bid Security" means the bank guarantee [•] dated [•] furnished by the Applicant / Consortium along with its Bid.

"Board" means the Board of Trustees for the Port of Visakhapatnam.

"Book Value" means the aggregate written down value as on the date of issue of the Termination Notice in the books of the Concessionaire of (i) the tangible assets (including capital works in progress) forming part of, fixed or attached to the ground, created, installed or provided by the Concessionaire and comprised in Project Facilities and Services, which in the reasonable judgement of an Expert are capable of being put to use / utilized by the Concessioneing Authority, and (ii) the moveable assets including cargo handling equipment belonging to the Concessionaire, which the Concessioneing Authority agrees to take over, in accordance with Indian Accounting Standards using depreciation rates as set forth in the (Indian) Companies Act, 1956, as applicable from time to time.

"Change in Law" shall have the meaning set out under Article 13.1 of this Agreement.

"Change of Scope" shall have the meaning assigned to it under Article 6.8(a).

"Change of Scope Notice" shall have the meaning assigned to it under Article 6.8(b).

"Completion Certificate" shall have the meaning assigned to it under Article 6.3.

"Concession" means the Concession granted by the Concessioneing Authority to the Concessionaire in accordance with the provisions of Article 2.1 of this Agreement for implementing the Project and providing Project Facilities and Services.

² The name and registered office address of the single applicant to be inserted.

"Concessioneing Authority Event of Default" shall have the meaning as set out under Article 15.1(b).

"Concessionaire Event of Default" shall have the meaning as set out under Article 15.1 (a).

"Concession Period" means the period of the Concession specified in Article 2.2 of this Agreement.

"Conditions Precedent" shall mean the conditions prescribed in Article 3 of this Agreement.

"Consortium" means the consortium consisting of (i) XXXX, (ii) YYYY, and (iii) ZZZZ formed, to implement the Project.

"Construction Phase" means the period from the Date of Award of Concession to the Date of Commercial Operation.

"Construction Works" means all works, equipments and things necessary to complete the Project and provide the Project Facilities and Services in accordance with this Agreement.

"Construction Standards" means the construction standards set out in the annexure to Appendix 4.

"Consultation Notice" has the meaning ascribed to it in Article 15.3.

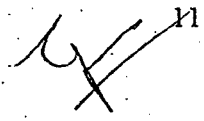
"Contractor" means a ³Person with whom the Concessionaire has entered into / may enter into a contract relating to the execution of any works and / or operation and maintenance of the Project Facilities and Services, including the Management Contractor.

"Date of Award of Concession" means the date when the Conditions Precedent have either been satisfied or waived by the Party other than the Party responsible for satisfying the same.

"⁴Date of Commercial Operation" means the date on which the Concessionaire receives the Completion Certificate in accordance with the provisions of this Agreement / MPT Act.

"Day" means the 24 (twenty four) hour period beginning and ending at 12:00 night Indian Standard Time.

³ If requested by the Concessionaire, to facilitate custom duty exemptions available to the contractors for certain projects, the names of the persons engaged as Contractors may be specified.

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"Debt Due" means the aggregate of the following sums representing the amounts advanced by the Lenders towards Actual Project Cost, expressed in Indian rupees as may be outstanding and payable to the Lenders under the Financing Documents on the Transfer Date:


- (a) the principal amount of the debt including any subordinated debt provided by the Lenders under the Financing Documents for financing the Project ("the Principal") but excluding (i) working capital loans; (ii) any part of the Principal that had fallen due for repayment one year prior to the Transfer Date, if the Transfer Date is related to expiry of the Concession Period or any part of the Principal that had fallen due after the Termination Notice, if the Transfer Date is related to termination prior to the expiry of the Concession Period; and (iii) any debt that has been rescheduled or refinanced, unless such repayment had been rescheduled or refinancing made with the prior consent of Concessioneing Authority; and
- (b) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub-clause (a) above upto the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, and (ii) penal interest or charges, payable under the Financing Documents to any Lender.

"Designs and Drawings" means the designs and drawings, and other technical information submitted by the Concessionaire from time to time and reviewed by the Independent Engineer in accordance with the provisions of this Agreement.

"Encumbrance" means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances and encroachments on the Project Site / Port's Assets / Project Facilities and Services.

"EPC Contract" means the contract entered into by the Concessionaire with one or more Contractors inter-alia for the purpose of design, engineering, procurement of equipment and materials (including by import thereof) and construction of the Project in accordance with the provisions of this Agreement.

"Environmental Law" means any statute, rule, regulation, ordinance, code, guideline or policy, having the force of law, in each case, applicable to the Project now or hereafter in effect and any applicable judicial or administrative interpretation, pronouncement, order, decree or judgment, relating to the environment, health and safety.


⁴ In case of Projects which do not entail any construction/augmentation of Facilities this will be the Date of Award of Concession.

"Equity" means the paid up share capital of the Concessionaire representing the equity component of the Actual Project Cost, as capitalized in the books of the Concessionaire and duly certified by the Statutory Auditors.

"Equity Documents" means collectively the documents evidencing subscription to Equity to the extent of equity component of cost of the Project.

"Escrow Account" shall have the meaning assigned to it under Article 9.5.

"Escrow Agreement" means the agreement to be executed *inter alia* between the Concessionaire, the Concessioneing Authority and the Lenders / Lenders representative substantially in the format set out in Appendix 16 hereto.

"Estimated Project Cost" means the sum of Rs.1145 (Rupees one thousand one hundred forty five) million being the cost of the Project as estimated by the Concessioneing Authority and disclosed in the Request for Proposal.

"Event of Default" shall have the meaning assigned to it under Article 15.1.

"Exclusivity Period" shall have the meaning ascribed to it in Article 12.2(c).

"Expert" means any person, body or organization of repute with recognized technical / professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement.

"Financial Assistance" means all funded and non-funded credit assistance including but not limited to loans, advances, lease assistance and guarantees required for the Project.

"Financial Close" means the date on which the Financing Documents providing for Financial Assistance by the Lenders, Equity Documents and the documents in respect of debt, if any, committed by the Applicant / Consortium have become effective and the Concessionaire has access to such Financial Assistance.

"Financial Year" means any twelve month period commencing from 1st April and ending on 31st March.

"Financing Documents" means, collectively, the documents executed in favour of or entered into with the Lenders, by the Concessionaire in respect of the Financial Assistance relating to the financing (including any re-financing) of the Actual Project Cost and includes any document providing security for the Financial Assistance.

"Financing Plan" means the financing plan as envisaged under the Financing Documents for financing the cost to be incurred for implementing the Project submitted by the Concessionaire in accordance with Article 3.1(a)(vii).

"Force Majeure Event" shall have the meaning ascribed to it in Article 14.1 of this Agreement.

"GoI" means the Government of India.

"Good Industry Practice" means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced operator engaged in construction, operation and maintenance of facilities, equipment or systems of the type and size similar to the Project Facilities and Services.

"Government Authority" means GoI, any state government or any governmental department, commission, board, body, bureau, agency, authority, instrumentality, administrative body, at central, state, or local level, having jurisdiction over the Concessionaire, the Port's Assets, the Project Facilities and Services or any portion thereof, but shall not include the Concessioning Authority.

"Gross Revenue" means all the revenues chargeable by the Concessionaire from the Project / Project Facilities and Services.

"Independent Engineer" means a Person appointed in accordance with Article 5.1 for supervision and monitoring of compliance by the Concessionaire with the project Requirements, more particularly to undertake, perform, carry out the duties, responsibilities, services and activities set forth in Appendix 7.

"Indian Accounting Standards" means the Indian accounting standards issued by the Institute of Chartered Accountants of India.

"Insurance Cover" shall have the meaning ascribed to it in Article 12.1(c)(ii).

"Lenders" means any Persons based in India or abroad providing Financial Assistance under the Financing Documents and includes a trustee for the holders of debentures / or other debt instruments issued by the Concessionaire to finance Project.

"License Fee" shall have the meaning assigned to it under Article 9.1(a).

"Management Contract"⁵ means the contract between the Concessionaire and the Management Contractor, in respect of obligations of the Management Contractor in respect of the Project in accordance with the Request for Proposal.

"Management Contractor" means [•]⁶.

⁵ This definition may be included only in cases where such a contract is envisaged.

⁶ This definition and the usage will be retained depending on the bids i.e. where the consortium meets the technical criteria on the strength of its management contractor who is not a member of the consortium. In such instances the management contractor would need to be identifiable in the contract.

"Management Control" means the possession, directly or indirectly of the power to direct or cause the direction of the management and policies of the Concessionaire, whether through the ownership of voting securities, by contract or otherwise or the power to elect or appoint more than 50% (fifty percent) of the directors, managers, partners or other individuals exercising similar authority with respect to the Concessionaire.

"Material Adverse Effect" means material adverse effect on (a) the ability of either Party to exercise any of their rights or perform / discharge any of their duties / obligations under and in accordance with the provisions of this Agreement and / or (b) the legality, validity, binding nature or enforceability of this Agreement.

"Milestone Dates" means the dates for completion of specified Project activities as contained in the Project Schedule.

"Minimum Guaranteed Cargo" shall have the meaning ascribed to it in Article 7.1(a)(xii)

"Month" means the calendar month as per the Gregorian calendar.

"MPT Act" means The Major Port Trusts Act, 1963 as amended, supplemented, re-enacted or replaced from time to time.

"Non Political Events" means the Force Majeure Events set out in Article 14.2.

"O&M Contract" means the contract, if any, entered into by the Concessionaire for the operation and maintenance of the Project in accordance with the provisions of this Agreement and shall include the Management Contract.

"Operations Phase" means the period from the Date of Commercial Operation to the expiry / termination of the Concession Period.

"Operations and Maintenance Standards" means the minimum standards of operations and maintenance set out in the annexure to Appendix 4 with regards the Project Facilities and Services.

"Other Events" means the Force Majeure Events set out in Article 14.4.

"Party" means either the Concessioneing Authority or the Concessionaire as the context may require or admit and **"Parties"** means both Concessioneing Authority and Concessionaire.

"Performance Standards" means the minimum standards of performance set out in Appendix 15 with regards the Project Facilities and Services.

"Performance Guarantee" shall mean the bank guarantee(s) / letter(s) of credit procured by the Concessionaire for the benefit of the Concessioneing Authority guaranteeing the performance of the obligations of the Concessionaire hereunder in the manner specified in Article 4.1.

"Person" means any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or governmental authority or agency or any other legal entity.

"Political Event" means the Force Majeure Events set out in Article 14.3.

"Port's Assets" means the assets set out in Appendix 2, belonging to the Concessioning Authority.

"Port Limits" means the boundary of the Visakhapatnam port. It is the waterfront area bounded by the coordinates 17°45'00"N / 83°21'08.5"E, 17°45'00"N / 83°30'21.24"E, 17°34'5.02"N / 83°21'54.51"E, 17°38'34.83"N / 83°15'38.25"E and notified vide Gazette Notification No. 254, dated June 03, 2003 and as amended, supplemented or replaced from time to time.

"Project" means the design, finance, construction, operation, maintenance, and marketing and providing of the Project Facilities and Services in accordance with the provisions of this Agreement.

"Project Capacity" means the capacity of the Project Facilities and Services to handle about 2.08 million tonnes per annum over a period of time, in phases with a projected throughput of 1.1 MT initially.

"Project Contracts" means collectively this Agreement, the EPC Contract, O&M Contract and any other material contract (other than the Financing Documents, the Escrow Agreement, the Substitution Agreement or any commercial agreement with the users) entered into or may hereafter be entered into by the Concessionaire in connection with the Project and Project Facilities and Services.⁷

"Project Facilities and Services" means the facilities and services as set out under the Project Requirements, to be provided by the Concessionaire during the Concession Period, in accordance with this Agreement.

"Project Requirements" means the minimum requirements as to the construction, operation and maintenance of the Project and provision of Project Facilities and Services set out in Appendix 4.

"Project Schedule" means the Appendix 5 hereto.

"Project Site" means the area demarcated in Appendix 1 including the waterfront, existing berth, land together with buildings, structures if any and easement rights thereto that may be given to the Concessionaire and all other assets comprised therein on which the Concessionaire is authorized to develop and operate the Project Facilities and Services as set forth in this Agreement.

⁷ This definition will need to be customised depending on the Project.

⁸ This definition may be assessed on a case-to-case basis and accordingly, the relevant documents may be inserted.

"Provisional Certificate" shall have the meaning assigned to it under Article 6.7

(d).

"Punch List" shall have the meaning assigned to it under Article 6.7 (d).

"Pilotage": Pilotage means Pilotage of vessels from Pilot Boarding Ground i.e., outside the breakwater, to the required berths and vice-versa by the licensed Pilot, who is aware and conversant of local conditions to ensure safe navigation with the help of necessary tugs.

"Quarter" means a period of 3 (three) Months.

"Remedial Period" has the meaning ascribed to it in Article 15.4.

"Request for Proposal" or "RFP" means the Request for Proposal dated [•] issued by the Concessioneing Authority to the applicants short-listed pursuant to the Request for Qualification and includes any addendum / clarifications issued in respect thereof by the Concessioneing Authority.

"Request for Qualification" or "RFQ" means the Request for Qualification dated May 2008 issued by the Concessioneing Authority inviting applications in accordance therewith for shortlisting the competent applicants that can subsequently bid for the Project, and includes any addendum / clarifications issued in respect thereof by the Concessioneing Authority.

"Requisition" has the meaning ascribed to it in Article 16.3.

"Royalty" means the gross revenue share payable by the Concessionaire to the Concessioneing Authority, pursuant to Article 9.2 hereof.

"Safety Standards" means the minimum standards of safety set out in the annexure to Appendix 4 with regards the Project / Project Facilities and Services.

"Scale of Rates" means the scale of rates along with the statement of conditions with respect thereto framed from time to time and notified by TAMP or such other competent authority under the provisions of MPT Act, as applicable.

"Scheduled Project Completion Date" means the date on which the Project is expected to be completed by the Concessionaire as per the implementation schedule set out in Appendix 5. The Scheduled Date of Completion is _____

"Selectee" has the meaning ascribed to it in Article 15.4(b).

"Special Audit" shall have the meaning assigned to it under Article 9.4.

"Statutory Auditors" means a firm of chartered accountants appointed in terms of Section 224 of the Companies Act, 1956 and acting as the statutory auditors of the Concessionaire.

"Substitution Agreement" means the agreement substantially in the form set out at Appendix 3, to be entered into between the Concessioneing Authority, the Concessionaire and the Lenders.

"Supporting Project Infrastructure"¹⁰ means:

- (a) maritime access channels & port entrance: The entrance channel to the outer harbour is 200m wide and dredged to a depth of 20m. The entrance channel to the inner harbour is dredged to a depth of 12.8m. 12.10 m
- (b) Shore protection and other protective works;
- (c) access to port for inland transport (including roads, bridges and railways);


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and shall include such other facilities as may be specified by the Concessioneing Authority as supporting infrastructure provided / to be provided for the Project.

"SBI PLR" means the prime lending rate of the State Bank of India prevailing as on the date of a payment due from which the computation of interest is required to be made under the Agreement.

"Schedule of Rates" means Schedule of Rates for land along with the statement of conditions with respect thereto framed from time to time and notified by TAMP or such other competent authority under the provisions of MPT Act, as applicable.

"TAMP" means Tariff Authority for Major Ports established under the MPT Act.

"Tariff" means the applicable rate(s) as per Scale of Rates that may be charged by the Concessionaire for and in respect of providing the Project Facilities and Services.

"Tariff Notification" means the notifications No. 24 dated 24.02.2009 setting out *inter alia* the Tariff and shall include any revisions thereof.

"Termination Notice" means the termination notice issued pursuant to Article 16.1 hereof.

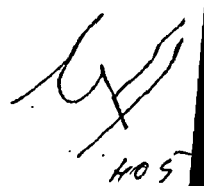
"Termination Period" shall have the meaning as set out under Article 16.1 hereof.

"Tests" shall have the meaning assigned to it under Article 6.7 (a) hereof.

⁹ The date would be fixed depending on the Project and in case of phase wise project development be linked to expected completion of the first phase of development.

¹⁰ This definition would need to be used/modified depending on the commitments made by the Concessioneing Authority at the time of bidding of the specific Project. This may either be a Conditions Precedent or ongoing obligation.




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"The Port" means Port of Visakhapatnam.

"Transfer" means to transfer, sell, assign, pledge, hypothecate, create a security interest in or other encumbrance on, place in trust (voluntarily or otherwise), transfer by operation of law or in any other way dispose of, whether or not voluntarily, the legal or beneficial interest in the equity shares of the Concessionaire.

"Transfer Date" means the date of expiry or termination as the case may be, of the Concession Period in accordance with the terms of this Agreement.

"Transaction Documents" means collectively the Project Contracts and the Financing Documents.

1.2 Other References

In this Agreement:

"BIS" means Bureau of Indian Standards.

"BS" means British Standard.

"CISF" means Central Industrial Security Force.

"FEM" means Federation of Equipment Manufacturers.

"IS" means Indian Standard.

"ISO" means International Organization for Standardization.

"IEC" means International Electro Technical Commission.

"km" means Kilometre, the unit of length.

"m" means Metre, the unit of length.

"mm" means Millimetre, the unit of length.

"MT" means Metric Tonne, the unit of weight.

"OISD" means Oil Industry Safety Directorate.

"VAT" means Value Added Tax.

1.3 Interpretations

This Agreement constitutes the entire understanding between the Parties regarding the Project and supersedes all previous written and/or oral representations and/or arrangements regarding the Project. If there is any aspect of the Project not covered by any of the provisions of this Agreement, then and only in that event, reference may be made by the Parties to the bid documents, *inter alia* including the RFP and RFQ documents, issued by the Concessions Authority and also including addendums, clarifications given in writing in the pre-bid meetings and

the submissions of the Concessionaire and the bid submitted by the Concessionaire but not otherwise. In case of any contradictions in the terms of this Agreement and any such other bid documents as referred to above, the terms of this Agreement shall prevail.

In this Agreement unless the context otherwise requires:

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (b) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);
- (c) the table of contents and any headings in this Agreement are for ease of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) the words "include" and "including" are to be construed without limitation;
- (e) references to "construction" include investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- (f) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (g) any reference to day shall mean a reference to a calendar day;
- (h) any reference to month shall mean a reference to a calendar month;
- (i) "Recital", "Article" and "Appendix" shall refer, except where the context otherwise requires, to Articles of and any Appendix to this Agreement. The Appendices to this Agreement shall form an integral part and parcel of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (j) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or novated at the time of such reference;

- (k) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer and/or a Statutory Auditor shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the Independent Engineer and / or Statutory Auditor, as the case may be, in this behalf and not otherwise;
- (l) unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;
- (m) unless otherwise specified, any interest to be calculated and payable under this Agreement shall accrue on a Monthly basis and from the respective due dates as provided for in this Agreement; and
- (n) any word or expression used in this Agreement, unless defined or construed in this Agreement, shall be construed as per the definition given in General Clauses Act, 1897 failing which it shall bear the ordinary English meaning.

1.4 Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

1.5 Ambiguities and Discrepancies

In case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (a) between two Articles of this Agreement, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
- (b) between the dimension scaled from the Design and Drawings and its specific written dimension, the latter shall prevail;
- (c) between any value written in numerals and that in words, the latter shall prevail; and
- (d) between the provisions of this Agreement and any other documents forming part of this Agreement, the former shall prevail.

ARTICLE 2

CONCESSION AND PORT ASSETS

2.1 Concession

In consideration of the Concessionaire agreeing to pay to the Concessioneing Authority (a) the License Fee and (b) Royalty, and performing its obligations as set out in this Agreement, the Concessioneing Authority hereby grants to the Concessionaire, subject to the provisions of this Agreement, an exclusive license for designing, engineering, financing, constructing, equipping, operating, maintaining, replacing the Project / Project Facilities and Services.

2.2 Concession Period

The Concession hereby granted is for a period of 30 (Thirty) years commencing from Date of Award of Concession during which the Concessionaire is authorized and obliged to implement the Project and to provide Project Facilities and Services in accordance with the provisions hereof.

Provided that: -

- (a) in the event of the Concession being extended by the Concessioneing Authority beyond the said period of 30 (Thirty) years in accordance with the provisions of this Agreement, the Concession Period shall include the period by which the Concession is so extended, and
- (b) in the event of an early termination / determination of the Concession / this Agreement by either Party in accordance with the provisions hereof, the Concession Period shall mean and be limited to the period commencing from the Date of Award of Concession and ending with the date of termination / determination of the Concession / this Agreement.

2.3 Acceptance of the Concession

The Concessionaire hereby accepts the Concession and agrees and undertakes to implement the Project and to provide Project Facilities and Services in accordance with the provisions of this Agreement. Subject to and in accordance with the provisions of this Agreement and Applicable Laws and Applicable Permits, the Concessionaire shall at its costs, charges, expenses and risk including but not limited to foreign exchange variation risk if any, conceptualize, design, engineer, finance, construct, equip, operate, maintain and replace the Project / Project Facilities and Services.

2.4 Port's Assets

- (a) In consideration of the Concessionaire agreeing to perform and discharge its obligations as set forth in this Agreement, the Concessioneing Authority hereby grants to the Concessionaire, the exclusive right to enter upon,

occupy and use the Project Site and Port's Assets for the purpose of implementing the Project and provision of Project Facilities and Services pursuant thereto in accordance with this Agreement.

- (b) The Concessionaire shall at its costs, charges and expenses make such development and improvements in the Project Site and Port's Assets as may be necessary or appropriate for implementing the Project and providing Project Facilities and Services, in accordance with the Agreement, Applicable Laws and Applicable Permits.

2.5 Use of Port's Assets

The Concessionaire shall not without the prior written consent or approval of the Concessioneing Authority use the Project Site and the Port's Assets for any purpose other than for the purposes of the Project / the Project Facilities and Services and purposes incidental thereto as permitted under this Agreement or as may otherwise be approved by the Concessioneing Authority.

2.6 Information about Project Site and Port's Assets

The information about the Project Site and Port's Assets as set out in Appendix 1 and Appendix 2 respectively is provided by the Concessioneing Authority in good faith and with due regard to the matters for which such information is required by the Concessionaire. The Concessioneing Authority agrees to provide to the Concessionaire, upon a reasonable request, any further information relating to the Project Site and Port Assets, which the Concessioneing Authority may now possess or may hereafter come to possess, as may be relevant to the implementation of the Project. Subject to this, the Concessioneing Authority makes no representation and gives no warranty to the Concessionaire in respect of the condition of the Port Assets or the Project Site.

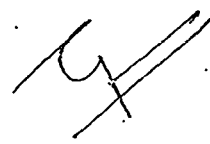
2.7 Acceptance of the Port's Assets

The Concessionaire accepts possession of the Port's Assets and Project Site on 'as is where is' basis and confirms having:

- (a) inspected the Project Site / Port's Assets, including the berths and all structures thereat and its surroundings;
- (b) satisfied itself as to the nature of the climatic, hydrological and general physical conditions of the Project Site / Port's Assets, the nature of the ground and subsoil, the form and nature of the Project Site / Port's Assets, and the nature of the design, work and materials necessary for the performance of its obligations under this Agreement; and
- (c) obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Concessionaire and its rights and obligations under or pursuant to this Agreement.

2.8 Peaceful Occupation

The Concessioneing Authority warrants that the Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in occupation of the Project Site and Port's Assets during the Concession Period. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site and Port's Assets or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have charge on the Project Site and Port's Assets or any part thereof pursuant to Section 78 of the MPT Act, the Concessioneing Authority shall, if called upon by the Concessionaire, defend such claims and proceedings.



ARTICLE 3
CONDITIONS PRECEDENT

3.1 Conditions Precedent

The award of the Concession shall be subject to the satisfaction or waiver of the following conditions precedent (the "Conditions Precedent"):

- (a) The following Conditions Precedent shall be satisfied by the Concessionaire:
- (i) Furnishing of the Performance Guarantee as stipulated in Article 4.1 hereof;
 - (ii) Furnishing of copies (certified as true copies by a director of the Concessionaire) of the constituent documents of the Concessionaire;
 - (iii) Furnishing of all resolutions adopted by the Board of Directors of the Concessionaire (certified as true copies by a director of the Concessionaire) authorizing the execution, delivery and performance by the Concessionaire of each of the Transaction Documents;
 - (iv) Opening the Escrow Account and executing the Escrow Agreement;
 - (v) Furnishing a copy of the Management Contract;¹²
 - (vi) Furnishing a certificate from its principal officer / director on the shareholding pattern of the Concessionaire;
 - (vii) Furnishing its Financing Plan and Financing Documents for the Project and demonstrating Financial Close. Provided, Financial Close shall be deemed to be achieved if the only conditions pending for achieving Financial Close are those which are required to be fulfilled by the Concessing Authority under Article 3.1 (b) hereunder;
 - (viii) Procuring and furnishing the following confirmations, in original, from the Applicant / members of Consortium:
 - (a) it / they shall at all times comply with the provisions of Article 11.2 in respect of their shareholding in the Concessionaire;
 - (b) it / they has / have the financial standing and resources to fund / raise finances for undertaking and implementing the Project in accordance with this Agreement;

¹² To be retained where relevant i.e. where on the strength of the Management Contract the consortium has qualified technically.

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- (c) the Applicant is / each of the member of the Consortium is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Concessioneing Authority to enter into this Agreement with the Concessionaire and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (ix) Furnishing to the Concessioneing Authority a legal opinion from the legal counsel of the Concessionaire with respect to the authority of the Concessionaire to enter into this Agreement and the enforceability hereof; and
- (x) Obtaining all Applicable Permits as may be required for commencement of Construction Works, as set out in Appendix 8.
- (xi) If required, the Concessionaire shall enter into an Integrity Pact with the Concessioneing Authority as per the "Standard Operating Procedure" laid down for adoption of Integrity Pact in Major Government Departments / Organisations formulated by the Central Vigilance Commission / Government of India.
- (b) The following Conditions Precedent shall be satisfied by the Concessioneing Authority:
- (i) procurement of the clearances required for the Project¹³, as set out in Appendix 8;
- (ii) handing over physical possession of the Project Site¹⁴ and / or the Port's Assets for the purposes of the Project;
- 3.2 The aforesaid Conditions Precedent shall be complied with within 90 (ninety)¹⁶ Days of the date of the Agreement. Each Party shall promptly inform the other Party in writing when the Conditions Precedent for which it is responsible have been satisfied.
- 3.3 Any of the Conditions Precedent set forth in Articles 3.1(a) may be waived fully or partially by the Concessioneing Authority at any time in its sole discretion or the Concessioneing Authority may grant additional time for compliance with these conditions and the Concessionaire shall be bound to ensure compliance within such additional time as may be specified by the Concessioneing Authority. Any of the Conditions Precedent set forth in Articles 3.1 (b) may be waived fully or partially by the Concessionaire at any time in its sole discretion.

¹³ These would constitute clearances for Project Site including the clearance from MoEF and in principle clearances for the Project. On a project specific basis, this may also include consent for establishment.

¹⁴ Where the Project Site is proposed to be handed over in a phased manner, this provision may be edited to specify only the property, if any that is required to be handed over prior to the commencement of construction.

¹⁵ This may be retained, omitted or modified based on the Project.

¹⁶ This will vary depending on the nature of Conditions Precedent and the Project.

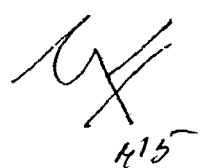
- 3.4 If the Concessionaire has fulfilled all the Conditions Precedent under Article 3.1(a) including the furnishing of the Performance Guarantee and has not waived or extended the time under Clause 3.3 above, and if the Concessioneing Authority has failed to fulfil the Conditions Precedent to be fulfilled by it under Article 3.1(b) (and which are within the power of the Concessioneing Authority), the Concessioneing Authority shall be liable to pay liquidated damages in a sum calculated at the rate of 0.1% (zero point one percent) of the Performance Guarantee for each day's delay until fulfilment of the Conditions Precedent subject to a maximum of 5% (five percent) of the figure mentioned in the Performance Guarantee furnished by the Concessionaire. In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Concessioneing Authority is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 3.6 below;
- 3.5 If the Concessioneing Authority has fulfilled all the Conditions Precedent under Article 3.1(b) and has not waived or extended the time under Clause 3.3 above, and if the Concessionaire has failed to fulfil the Conditions Precedent to be fulfilled by it under Article 3.1(a) (and which are within the power of the Concessionaire), the Concessionaire shall be liable to pay liquidated damages in a sum calculated at the rate of 0.1% (zero point one percent) of the Performance Guarantee for each day's delay until fulfilment of the Conditions Precedent subject to a maximum of 5% (five percent) of the figure mentioned in the Performance Guarantee furnished by the Concessionaire. In such event, having regard to the quantum of damages, the time for the performance shall be deemed to have been extended by the number of days for which the liquidated damages is paid and if, after the extended period the Concessionaire is still not in a position to comply with the Conditions Precedent, then the agreement shall be liable to be terminated as provided for in Clause 3.6 below;
- 3.6 In the event that the Conditions Precedents are not complied with within the time (including the extended time, if any) in terms of the aforesaid Articles 3.2 to 3.5, this Agreement shall be liable to be terminated. If such termination is on account of failure of the Concessionaire to comply with the Conditions Precedent, the Bid Security shall stand forfeited. If such termination is on account of failure of the Concessioneing Authority, the Concessioneing Authority shall be obliged to return the Bid Security / Performance Guarantee. It is clarified that except for the payment as stipulated in the foregoing Article 3.4 and 3.5 and forfeiture in this Article 3.6, each party hereto shall have no claims against the other for costs, damages, compensation or otherwise.

ARTICLE 4

PERFORMANCE GUARANTEE

4.1 Performance Guarantee

The Concessionaire shall for due performance of its obligations during the Construction Phase provide to the Concessions Authority an unconditional and irrevocable bank guarantee, in favour of the Concessions Authority encashable and enforceable at Visakhapatnam substantially in the form set forth in Appendix 9 or an irrevocable revolving letter of credit in the form acceptable to the Concessions Authority (the "Performance Guarantee"). The Performance Guarantee shall be for a sum of Rs. 57,250,000 (Rupees fifty seven million two hundred fifty thousand only). Till such time the Concessionaire provides to Concessions Authority the Performance Guarantee pursuant hereto, the Bid Security shall remain in full force and effect. The Performance Guarantee, if in the form of a bank guarantee shall be valid for an initial period of 1 (one) year and shall be renewed 30 (thirty) Days prior to expiry of each year, for an additional term of 1 (one) year. It is clarified that the Concessionaire shall be liable to restore the Performance Guarantee to the full amount in case of part encashment of the same by the Concessions Authority. This shall be done within 30 (thirty) Days of any such part encashment. The Performance Guarantee, if in the form of a letter of credit shall be irrevocable and replenished from time to time such that an amount of Rs. 57,250,000 (Rupees fifty seven million two hundred fifty thousand only) is available in immediate cash to the Concessions Authority for the entire period of the Construction Phase. The Performance Guarantee furnished under this provision shall be valid until expiry of 6 (six) months from the Date of Commercial Operations. Failure of the Concessionaire to provide a valid Performance Guarantee and/or restore and maintain the Performance Guarantee in accordance with this Article shall entitle the Concessions Authority to forthwith terminate this Agreement and also if relevant, to forfeit the Bid Security.



ARTICLE 5

INDEPENDENT ENGINEER

5.1 Independent Engineer

- (a) The Independent Engineer shall be selected through a tender process. The Concessioneing Authority shall in the procurement documents published by it, set out in reasonable detail the scope of work as indicated in Appendix 7 and shortlist bidders based on their technical capability. The Concessioneing Authority shall within 30 (thirty) Days of the date of this Agreement forward to the Concessionaire a list consisting of the names accompanied by their respective profile in brief of Persons so shortlisted. If within 15 (fifteen) Days of forwarding the list, the Concessioneing Authority does not receive any objection from the Concessionaire with reasons therefor, the Concessioneing Authority shall call for a financial bid from the shortlisted Persons and select the Independent Engineer ordinarily based on the lowest fee quote. Any objection raised by the Concessionaire shall be considered by the Concessioneing Authority and Persons against whom such objections are raised will at the discretion of the Concessioneing Authority, which discretion shall be used with the highest degree of prudence and fairness, be disqualified prior to seeking a financial bid.
- (b) The Independent Engineer selected pursuant to the aforesaid process shall be appointed for a period commencing from the Date of Award of Concession to the date of expiry of 6 (six) months from the Date of Commercial Operations. The scope of work of the Independent Engineer shall be substantially as set out in Appendix 7.
- (c) The costs and expenses of the Independent Engineer shall be borne by the Concessioneing Authority and Concessionaire, equally.
- (d) If the Concessioneing Authority either on its own or on a report of the Concessionaire has reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, the Concessioneing Authority may after giving the Independent Engineer due opportunity of being heard, terminate the appointment of the Independent Engineer and appoint another firm in its place in accordance with the preceding clause (a) above.
- (e) If either Party disputes any advice, instruction or decision of the Independent Engineer, the dispute shall be resolved in accordance with the dispute resolution procedure set out in Article 19.

ARTICLE 6

PROJECT IMPLEMENTATION

6.1 Preparation of Designs and Drawings

The Concessionaire shall at its cost, charges and expenses, prepare the Designs and Drawings in conformity with the Project Requirements.

6.2 Review of the Designs and Drawings

- (a) The Concessionaire shall submit the Designs and Drawings as set out in Appendix 6 for the review of the Independent Engineer. Simultaneously, the Concessionaire shall also provide the Concessioneing Authority with a set of the Designs and Drawings.
- (b) The Independent Engineer shall review the Designs and Drawings submitted by the Concessionaire and provide its comments / observations and suggestions on the same (including taking into account the comments / observations of the Concessioneing Authority in respect thereof as it may in its sole discretion deem fit) within 21 (twenty one) Days from the date of the receipt of such Designs and Drawings.
- (c) In the event that the Independent Engineer has observed that the Designs and Drawings are not in conformity with the Project Requirements, the Concessionaire shall promptly and without any undue delay revise and resubmit the Designs and Drawings or satisfy the Independent Engineer with regards its compliance.
- (d) If the Independent Engineer does not make any observation / comments with respect to the Designs and Drawings submitted to it by the Concessionaire within 21 (twenty one) Days of the submission, it shall be deemed that the Independent Engineer has no suggestions to make with respect to the Designs and Drawings and the Concessionaire shall be entitled to proceed with the Project accordingly.
- (e) The Concessionaire shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or in resubmitting the Designs and Drawings. Provided however the Concessioneing Authority at its sole discretion may suitably extend the Construction Phase or provide other relief to compensate for any such delay not attributable to the Concessionaire.
- (f) The Concessionaire shall not change any Designs and Drawings reviewed by the Independent Engineer under this Agreement, without submitting such revised Designs and Drawings for the review of the Independent Engineer.

- (g) Notwithstanding the review by the Independent Engineer, the Concessionaire shall be solely responsible for any defect and/or deficiency in the Designs and Drawings relating to the Project or any part thereof and accordingly the Concessionaire shall at all times remain responsible for its obligations under this Agreement.
- (h) Any review of the Designs and Drawings conducted by the Concessioneing Authority is solely for the Concessioneing Authority's own information and that by conducting such review, the Concessioneing Authority does not accept any responsibility for the same.
- (i) The Concessionaire shall in no way represent to any Person that, as a result of any review by the Independent Engineer, the Concessioneing Authority has accepted responsibility for the engineering or soundness of any work relating to the Project/ the Project Facilities and Services or part thereof carried out by the Concessionaire and the Concessionaire shall, in accordance with the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project/ the Project Facilities and Services or any part thereof.

6.3 Construction Phase

The Concessionaire shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule and shall also obtain from the Independent Engineer a certificate as to completion of construction of Project Facilities and Services in accordance with the provisions of this Agreement ("Completion Certificate") not later than 24 (Twenty four) Months from the date of commencement of the Concession Period.

6.4 Obligations of the Concessionaire

Without prejudice to the generality of Article 6.3 and in addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessionaire shall:

- (a) arrange for, in a timely manner all necessary financial and other resources required for construction and installation of the Project Facilities and Services;
- (b) engage professionally competent Persons for project management and construction and ensure that all works are carried out in compliance with the Construction Standards;
- (c) give written notice to the Concessioneing Authority within 7 (seven) Days of any material modification or change to any of the Financing Documents and / or any Equity Documents and shall simultaneously therewith also furnish copies of such modified / amended documents to the Concessioneing Authority. Provided no such modification / amendment will be made if it in

any manner whatsoever has the effect of imposing an additional financial obligation or increasing the financial obligation of the Concessioneing Authority in addition to that contemplated under the Financing Documents provided on Financial Close, without the prior written consent of the Concessioneing Authority. For avoidance of doubt any such modifications / amendments made without the prior written consent of the Concessioneing Authority will not be enforceable against the Concessioneing Authority;

- (d) obtain Applicable Permits, comply with Applicable Laws and Applicable Permits and give priority to safety in its construction and planning activities in order to protect life, health, property and environment;
- (e) provide to the representative(s) of the Concessioneing Authority, at reasonable times and upon prior intimation, access to the Project Site to review progress in construction and to ascertain compliance with any of the requirements of this Agreement. Provided that non-inspection by the Concessioneing Authority of any works shall not, in relation to such works, (i) amount to any consent or approval by the Concessioneing Authority nor shall the same be deemed to be waiver of any of the rights of the Concessioneing Authority under this Agreement; and (ii) release or discharge the Concessionaire from its obligations or liabilities under this Agreement in respect of such work;
- (f) provide monthly reports on the progress of Construction Works or such other relevant information as may be required by the Independent Engineer;
- (g) promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Independent Engineer and ensure timely completion of construction of the Project / the Project Facilities and Services in all respects in accordance with the provisions of this Agreement; and
- (h) to ensure safe and timely construction and completion of the Project / Project Facilities and Services, the Concessionaire may, at its cost, interrupt and divert/create barriers on the flow of water or on the road or port traffic, adjacent to the Project Site if such interruption and diversion is imperative for the efficient progress of Construction Works and conforms to Good Industry Practice; provided that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Independent Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Concessionaire shall at all times be responsible for ensuring safe operation of Construction Works and shall remove the interruption or diversion within the period specified by the Independent Engineer.

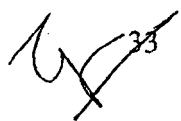
6.5 Obligations of the Concessing Authority

In addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessing Authority shall:

- (a) in matters falling within its authority, grant, the Applicable Permits, approvals and consents as may be required by the Concessionaire and on a best efforts basis assist the Concessionaire in obtaining all other Applicable Permits as may be required by the Concessionaire;
- (b) make available all records of sub-soil investigations carried out on its behalf in the Port's Assets, if requested by the Concessionaire. It is clarified that the Concessionaire shall be solely responsible for determining the adequacy or otherwise of such investigations and will not in reliance of such records, be entitled to claim any relief under this Agreement;
- (c) upon satisfaction as to completion and receipt of Completion Certificate issued by the Independent Engineer promptly obtain approval of the Collector of Customs, publish requisite notifications in the Official Gazette and declare the Project Facilities and Services as ready for operation in accordance with the provisions of Section 37 of the MPT Act;
- (d) upon written request from the Concessionaire, assist the Concessionaire, on a best effort basis, in obtaining immigration clearances, employment permits and residential premises for any foreign personnel engaged or employed by the Concessionaire in connection with the implementation of the Project; and
- (e) subject to the Concessionaire / Contractor complying with the requirements under the Applicable Laws including but not limited to payment of customs and any other duty, assist the Concessionaire or Contractor, on a best effort basis, to import into India all items of equipment and materials required for the Project.

6.6 Suspension of Works

- (a) Upon recommendation of the Independent Engineer to this effect, the Concessing Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Concessing Authority, such work is not in accordance with the Construction Standards / Safety Standards.
- (b) The Concessionaire shall, pursuant to the notice under the foregoing provision suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Concessing Authority and thereupon represent to the Concessing Authority / Independent Engineer, the remedial measures to remedy the defects notified. The Concessionaire may by notice require the Independent Engineer to inspect such remedial measures forthwith and make a report to



the Concessions Authority recommending whether or not the suspension hereunder may be revoked. Any dispute as regards the suspension of works or the remedial measures proposed, if cannot resolved within 30 (thirty) Days of the suspension or proposal of the remedial measures, shall be submitted for dispute resolution in accordance with Article 19 hereof.

6.7 Issue of Completion Certificate

- (a) At least 60 (sixty) Days prior to the likely completion of the Project, the Concessionaire shall notify the Independent Engineer of the date when it intends to commence commercial operations. The Independent Engineer shall then proceed to inspect the Construction Works with the intention of issuing the Completion Certificate and determine and notify to the Concessionaire the schedule and manner of the tests as are specified in Appendix 7 that it shall carry out to ensure that the Project meets with the Construction Standards ("the Tests"). The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Concessionaire, and notified to the Concessions Authority who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Independent Engineer failing to mutually agree on the dates for conducting the Tests, the Concessionaire shall fix the dates by not less than 10 (ten) Days notice to the Independent Engineer;
- (b) Upon completion of each Test, the Independent Engineer shall provide to the Concessionaire and the Concessions Authority copies of all Test data including detailed Test results;
- (c) Upon completion of Construction Works and the Independent Engineer determining all the Tests to be successful, it shall forthwith issue to the Concessionaire and the Concessions Authority a Completion Certificate substantially in the form set forth in Appendix 10;
- (d) The Independent Engineer may, at the request of the Concessionaire, issue a provisional certificate of completion substantially in the form set forth in Appendix 10 (the "Provisional Certificate") if the Tests are successful and the Project can be safely and reliably placed in commercial operation though certain works or things forming part thereof are outstanding and not yet complete. The Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire (the "Punch List") to be completed by the Concessionaire within a stipulated time. Provided, notwithstanding the foregoing, no such Provisional Certificate will be issued pending notifications in the Official Gazette by the Collector of Customs; in accordance with the provisions of Section 37 of the MPT Act for the Project Facilities and Services. All items in the Punch List shall be completed by the Concessionaire within 90 (ninety) Days of the date of issue of the Provisional Certificate or such other extended period that the Concessions Authority may in its sole discretion determine, failing which the Provisional Certificate shall lose its validity and the Concessions Authority shall be entitled to terminate this Agreement;

- (e) Without prejudice to the foregoing, if the Concessionaire shall have failed to complete any Construction Works on account of Force Majeure or for reasons solely attributable to the Concessions Authority, the Concessions Authority may, in its discretion, reduce the scope of Project and require the Concessionaire to pay 80% (eighty percent) of the sum saved due to such reduction of scope. Upon such payment to the Concessions Authority, the obligations of the Concessionaire in respect of such works shall be deemed to have been fulfilled.

6.8 Change of Scope

- (a) The Concessions Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the scope of the Project as contemplated by this Agreement ("Change of Scope"). Provided no such Change of Scope shall be made in the Construction Phase if it is in the reasonable judgment of the parties hereto likely to delay the completion of the Project such that the Project cannot be completed on the Scheduled Project Completion Date. Provided further, the cost of implementing a single Change of Scope shall not exceed a sum corresponding to 5% (five percent) of the Estimated Project Cost and during the Concession Period the cumulative cost of implementing orders pertaining to Change of Scope shall not exceed a sum corresponding to 20% (twenty percent) of the Estimated Project Cost;
- (b) If the Concessions Authority determines that a Change of Scope is necessary, it shall issue to the Concessionaire a notice specifying in reasonable detail the works and services contemplated thereunder (the "Change of Scope Notice");
- (c) Upon receipt of a Change of Scope Notice, the Concessionaire shall, provide to the Concessions Authority, the following:
- (i) the adverse impact, if any, which the Change of Scope is likely to have on the Project; and
 - (ii) the cost to be incurred by the Concessionaire for and in respect of such Change of Scope;
- (d) Upon receipt of the foregoing information, the Concessions Authority shall, if it decides to proceed with the Change of Scope, convey its agreement or otherwise of the assessment of the Concessionaire. If the Concessionaire does not notify any adverse impact of a Change of Scope notified under the Change of Scope Notice within 30 (thirty) Days of the date thereof and/or the Concessions Authority does not disagree with the cost assessment of the Concessionaire, the Concessions Authority shall issue an order requiring the Concessionaire to proceed with the implementation of such Change of Scope. If an adverse impact is notified by the Concessionaire and/or the Concessions Authority disagrees with the cost assessment, the Parties shall in good faith modify the Change of Scope envisaged so as to remove the adverse impact/agree to the cost

ARTICLE 4

PERFORMANCE GUARANTEE

4.1 Performance Guarantee

The Concessionaire shall for due performance of its obligations during the Construction Phase provide to the Concessioneing Authority an unconditional and irrevocable bank guarantee, in favour of the Concessioneing Authority encashable and enforceable at Visakhapatnam substantially in the form set forth in Appendix 9 or an irrevocable revolving letter of credit in the form acceptable to the Concessioneing Authority (the "Performance Guarantee"). The Performance Guarantee shall be for a sum of Rs. 57,250,000 (Rupees fifty seven million two hundred fifty thousand only). Till such time the Concessionaire provides to Concessioneing Authority the Performance Guarantee pursuant hereto, the Bid Security shall remain in full force and effect. The Performance Guarantee, if in the form of a bank guarantee shall be valid for an initial period of 1 (one) year and shall be renewed 30 (thirty) Days prior to expiry of each year, for an additional term of 1 (one) year. It is clarified that the Concessionaire shall be liable to restore the Performance Guarantee to the full amount in case of part encashment of the same by the Concessioneing Authority. This shall be done within 30 (thirty) Days of any such part encashment. The Performance Guarantee, if in the form of a letter of credit shall be irrevocable and replenished from time to time such that an amount of Rs. 57,250,000 (Rupees fifty seven million two hundred fifty thousand only) is available in immediate cash to the Concessioneing Authority for the entire period of the Construction Phase. The Performance Guarantee furnished under this provision shall be valid until expiry of 6 (six) months from the Date of Commercial Operations. Failure of the Concessionaire to provide a valid Performance Guarantee and/or restore and maintain the Performance Guarantee in accordance with this Article shall entitle the Concessioneing Authority to forthwith terminate this Agreement and also if relevant, to forfeit the Bid Security.


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ARTICLE 5

INDEPENDENT ENGINEER

5.1 Independent Engineer

- (a) The Independent Engineer shall be selected through a tender process. The Concessioneing Authority shall in the procurement documents published by it, set out in reasonable detail the scope of work as indicated in Appendix 7 and shortlist bidders based on their technical capability. The Concessioneing Authority shall within 30 (thirty) Days of the date of this Agreement forward to the Concessionaire a list consisting of the names accompanied by their respective profile in brief of Persons so shortlisted. If within 15 (fifteen) Days of forwarding the list, the Concessioneing Authority does not receive any objection from the Concessionaire with reasons therefor, the Concessioneing Authority shall call for a financial bid from the shortlisted Persons and select the Independent Engineer ordinarily based on the lowest fee quote. Any objection raised by the Concessionaire shall be considered by the Concessioneing Authority and Persons against whom such objections are raised will at the discretion of the Concessioneing Authority, which discretion shall be used with the highest degree of prudence and fairness, be disqualified prior to seeking a financial bid.
- (b) The Independent Engineer selected pursuant to the aforesaid process shall be appointed for a period commencing from the Date of Award of Concession to the date of expiry of 6 (six) months from the Date of Commercial Operations. The scope of work of the Independent Engineer shall be substantially as set out in Appendix 7.
- (c) The costs and expenses of the Independent Engineer shall be borne by the Concessioneing Authority and Concessionaire, equally.
- (d) If the Concessioneing Authority either on its own or on a report of the Concessionaire has reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner; the Concessioneing Authority may after giving the Independent Engineer due opportunity of being heard, terminate the appointment of the Independent Engineer and appoint another firm in its place in accordance with the preceding clause (a) above.
- (e) If either Party disputes any advice, instruction or decision of the Independent Engineer, the dispute shall be resolved in accordance with the dispute resolution procedure set out in Article 19.

ARTICLE 6

PROJECT IMPLEMENTATION

6.1 Preparation of Designs and Drawings

The Concessionaire shall at its cost, charges and expenses, prepare the Designs and Drawings in conformity with the Project Requirements.

6.2 Review of the Designs and Drawings

- (a) The Concessionaire shall submit the Designs and Drawings as set out in Appendix 6 for the review of the Independent Engineer. Simultaneously, the Concessionaire shall also provide the Concessioneing Authority with a set of the Designs and Drawings.
- (b) The Independent Engineer shall review the Designs and Drawings submitted by the Concessionaire and provide its comments / observations and suggestions on the same (including taking into account the comments / observations of the Concessioneing Authority in respect thereof as it may in its sole discretion deem fit) within 21 (twenty one) Days from the date of the receipt of such Designs and Drawings.
- (c) In the event that the Independent Engineer has observed that the Designs and Drawings are not in conformity with the Project Requirements, the Concessionaire shall promptly and without any undue delay revise and resubmit the Designs and Drawings or satisfy the Independent Engineer with regards its compliance:
- (d) If the Independent Engineer does not make any observation / comments with respect to the Designs and Drawings submitted to it by the Concessionaire within 21 (twenty one) Days of the submission, it shall be deemed that the Independent Engineer has no suggestions to make with respect to the Designs and Drawings and the Concessionaire shall be entitled to proceed with the Project accordingly.
- (e) The Concessionaire shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or in resubmitting the Designs and Drawings. Provided however the Concessioneing Authority at its sole discretion may suitably extend the Construction Phase or provide other relief to compensate for any such delay not attributable to the Concessionaire.
- (f) The Concessionaire shall not change any Designs and Drawings reviewed by the Independent Engineer under this Agreement, without submitting such revised Designs and Drawings for the review of the Independent Engineer.

- (g) Notwithstanding the review by the Independent Engineer, the Concessionaire shall be solely responsible for any defect and/or deficiency in the Designs and Drawings relating to the Project or any part thereof and accordingly the Concessionaire shall at all times remain responsible for its obligations under this Agreement.
- (h) Any review of the Designs and Drawings conducted by the Concessions Authority is solely for the Concessions Authority's own information and that by conducting such review, the Concessions Authority does not accept any responsibility for the same.
- (i) The Concessionaire shall in no way represent to any Person that, as a result of any review by the Independent Engineer, the Concessions Authority has accepted responsibility for the engineering or soundness of any work relating to the Project/ the Project Facilities and Services or part thereof carried out by the Concessionaire and the Concessionaire shall, in accordance with the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project/ the Project Facilities and Services or any part thereof.

6.3 Construction Phase

The Concessionaire shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule and shall also obtain from the Independent Engineer a certificate as to completion of construction of Project Facilities and Services in accordance with the provisions of this Agreement ("Completion Certificate") not later than 24 (Twenty four) Months from the date of commencement of the Concession Period.

6.4 Obligations of the Concessionaire

Without prejudice to the generality of Article 6.3 and in addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessionaire shall:

- (a) arrange for, in a timely manner all necessary financial and other resources required for construction and installation of the Project Facilities and Services;
- (b) engage professionally competent Persons for project management and construction and ensure that all works are carried out in compliance with the Construction Standards;
- (c) give written notice to the Concessions Authority within 7 (seven) Days of any material modification or change to any of the Financing Documents and / or any Equity Documents and shall simultaneously therewith also furnish copies of such modified / amended documents to the Concessions Authority. Provided no such modification / amendment will be made if it in

any manner whatsoever has the effect of imposing an additional financial obligation or increasing the financial obligation of the Concessioneing Authority in addition to that contemplated under the Financing Documents provided on Financial Close, without the prior written consent of the Concessioneing Authority. For avoidance of doubt any such modifications / amendments made without the prior written consent of the Concessioneing Authority will not be enforceable against the Concessioneing Authority;

- (d) obtain Applicable Permits, comply with Applicable Laws and Applicable Permits and give priority to safety in its construction and planning activities in order to protect life, health, property and environment;
- (e) provide to the representative(s) of the Concessioneing Authority, at reasonable times and upon prior intimation, access to the Project Site to review progress in construction and to ascertain compliance with any of the requirements of this Agreement. Provided that non-inspection by the Concessioneing Authority of any works shall not, in relation to such works, (i) amount to any consent or approval by the Concessioneing Authority nor shall the same be deemed to be waiver of any of the rights of the Concessioneing Authority under this Agreement; and (ii) release or discharge the Concessionaire from its obligations or liabilities under this Agreement in respect of such work;
- (f) provide monthly reports on the progress of Construction Works or such other relevant information as may be required by the Independent Engineer;
- (g) promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Independent Engineer and ensure timely completion of construction of the Project / the Project Facilities and Services in all respects in accordance with the provisions of this Agreement; and
- (h) to ensure safe and timely construction and completion of the Project / Project Facilities and Services, the Concessionaire may, at its cost, interrupt and divert/create barriers on the flow of water or on the road or port traffic, adjacent to the Project Site if such interruption and diversion is imperative for the efficient progress of Construction Works and conforms to Good Industry Practice; provided that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Independent Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Concessionaire shall at all times be responsible for ensuring safe operation of Construction Works and shall remove the interruption or diversion within the period specified by the Independent Engineer.

6.5 Obligations of the Concessioneing Authority

In addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessioneing Authority shall:

- (a) in matters falling within its authority, grant, the Applicable Permits, approvals and consents as may be required by the Concessionaire and on a best efforts basis assist the Concessionaire in obtaining all other Applicable Permits as may be required by the Concessionaire;
- (b) make available all records of sub-soil investigations carried out on its behalf in the Port's Assets, if requested by the Concessionaire. It is clarified that the Concessionaire shall be solely responsible for determining the adequacy or otherwise of such investigations and will not in reliance of such records, be entitled to claim any relief under this Agreement;
- (c) upon satisfaction as to completion and receipt of Completion Certificate issued by the Independent Engineer promptly obtain approval of the Collector of Customs, publish requisite notifications in the Official Gazette and declare the Project Facilities and Services as ready for operation in accordance with the provisions of Section 37 of the MPT Act;
- (d) upon written request from the Concessionaire, assist the Concessionaire, on a best effort basis, in obtaining immigration clearances, employment permits and residential premises for any foreign personnel engaged or employed by the Concessionaire in connection with the implementation of the Project; and
- (e) subject to the Concessionaire / Contractor complying with the requirements under the Applicable Laws including but not limited to payment of customs and any other duty, assist the Concessionaire or Contractor, on a best effort basis, to import into India all items of equipment and materials required for the Project.

6.6 Suspension of Works

- (a) Upon recommendation of the Independent Engineer to this effect, the Concessioneing Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Concessioneing Authority, such work is not in accordance with the Construction Standards / Safety Standards.
- (b) The Concessionaire shall, pursuant to the notice under the foregoing provision suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Concessioneing Authority and thereupon represent to the Concessioneing Authority / Independent Engineer, the remedial measures to remedy the defects notified. The Concessionaire may by notice require the Independent Engineer to inspect such remedial measures forthwith and make a report to



the Concessioneing Authority recommending whether or not the suspension hereunder may be revoked. Any dispute as regards the suspension of works or the remedial measures proposed, if cannot resolved within 30 (thirty) Days of the suspension or proposal of the remedial measures, shall be submitted for dispute resolution in accordance with Article 19 hereof.

6.7 Issue of Completion Certificate

- (a) At least 60 (sixty) Days prior to the likely completion of the Project, the Concessionaire shall notify the Independent Engineer of the date when it intends to commence commercial operations. The Independent Engineer shall then proceed to inspect the Construction Works with the intention of issuing the Completion Certificate and determine and notify to the Concessionaire the schedule and manner of the tests as are specified in Appendix 7 that it shall carry out to ensure that the Project meets with the Construction Standards ("the Tests"). The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Concessionaire, and notified to the Concessioneing Authority who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Independent Engineer failing to mutually agree on the dates for conducting the Tests, the Concessionaire shall fix the dates by not less than 10 (ten) Days notice to the Independent Engineer;
- (b) Upon completion of each Test, the Independent Engineer shall provide to the Concessionaire and the Concessioneing Authority copies of all Test data including detailed Test results;
- (c) Upon completion of Construction Works and the Independent Engineer determining all the Tests to be successful, it shall forthwith issue to the Concessionaire and the Concessioneing Authority a Completion Certificate substantially in the form set forth in Appendix 10;
- (d) The Independent Engineer may, at the request of the Concessionaire, issue a provisional certificate of completion substantially in the form set forth in Appendix 10 (the "Provisional Certificate") if the Tests are successful and the Project can be safely and reliably placed in commercial operation though certain works or things forming part thereof are outstanding and not yet complete. The Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire (the "Punch List") to be completed by the Concessionaire within a stipulated time. Provided, notwithstanding the foregoing, no such Provisional Certificate will be issued pending notifications in the Official Gazette by the Collector of Customs; in accordance with the provisions of Section 37 of the MPT Act for the Project Facilities and Services. All items in the Punch List shall be completed by the Concessionaire within 90 (ninety) Days of the date of issue of the Provisional Certificate or such other extended period that the Concessioneing Authority may in its sole discretion determine, failing which the Provisional Certificate shall lose its validity and the Concessioneing Authority shall be entitled to terminate this Agreement;

- (e) Without prejudice to the foregoing, if the Concessionaire shall have failed to complete any Construction Works on account of Force Majeure or for reasons solely attributable to the Concessions Authority, the Concessions Authority may, in its discretion, reduce the scope of Project and require the Concessionaire to pay 80% (eighty percent) of the sum saved due to such reduction of scope. Upon such payment to the Concessions Authority, the obligations of the Concessionaire in respect of such works shall be deemed to have been fulfilled.

6.8 Change of Scope

- (a) The Concessions Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the scope of the Project as contemplated by this Agreement ("Change of Scope"). Provided no such Change of Scope shall be made in the Construction Phase if it is in the reasonable judgment of the parties hereto likely to delay the completion of the Project such that the Project cannot be completed on the Scheduled Project Completion Date. Provided further, the cost of implementing a single Change of Scope shall not exceed a sum corresponding to 5% (five percent) of the Estimated Project Cost and during the Concession Period the cumulative cost of implementing orders pertaining to Change of Scope shall not exceed a sum corresponding to 20% (twenty percent) of the Estimated Project Cost;
- (b) If the Concessions Authority determines that a Change of Scope is necessary, it shall issue to the Concessionaire a notice specifying in reasonable detail the works and services contemplated thereunder (the "Change of Scope Notice");
- (c) Upon receipt of a Change of Scope Notice, the Concessionaire shall, provide to the Concessions Authority, the following:
- (i) the adverse impact, if any, which the Change of Scope is likely to have on the Project; and
 - (ii) the cost to be incurred by the Concessionaire for and in respect of such Change of Scope;
- (d) Upon receipt of the foregoing information, the Concessions Authority shall, if it decides to proceed with the Change of Scope, convey its agreement or otherwise of the assessment of the Concessionaire. If the Concessionaire does not notify any adverse impact of a Change of Scope notified under the Change of Scope Notice within 30 (thirty) Days of the date thereof and/or the Concessions Authority does not disagree with the cost assessment of the Concessionaire, the Concessions Authority shall issue an order requiring the Concessionaire to proceed with the implementation of such Change of Scope. If an adverse impact is notified by the Concessionaire and/or the Concessions Authority disagrees with the cost assessment, the Parties shall in good faith modify the Change of Scope envisaged so as to remove the adverse impact/agree to the cost

implication for carrying out the Change of Scope within a period of 30 (thirty) Days of notification of the adverse impact/cost. In the event that the Parties are unable to mutually agree to a Change of Scope and/or the cost of implementing the same, they may seek intervention of an Expert to resolve the differences and upon the final determination of the desired Change of Scope and its cost implication, the Concessioneing Authority may issue an order to implement the Change of Scope;

- (e) The provisions of this Agreement, insofar as they relate to Construction Works and Tests, shall apply mutatis mutandis to the works undertaken by the Concessionaire in respect of a Change of Scope;
- (f) Within 7 (seven) Days of an order for Change of Scope being issued, the Concessioneing Authority shall make an advance payment to the Concessionaire of a sum equal to 20% (twenty per cent) of the cost of Change of Scope as agreed hereunder. The Concessionaire shall, after commencement of work, present to the Concessioneing Authority bills for payment in respect of the works in progress or completed works, as the case may be, supported by such documentation as is reasonably sufficient for the Concessioneing Authority to determine the accuracy thereof. Within 30 (thirty) Days of receipt of such bills, the Concessioneing Authority shall disburse to the Concessionaire such amounts as are certified by the Statutory Auditors as being expended by the Concessionaire for and in respect of implementing Construction Works or procuring equipments following an order for a Change of Scope;
- (g) Notwithstanding anything to the contrary contained in this Article 6.8, the Concessioneing Authority may, after giving the Change of Scope Notice to the Concessionaire and considering its reply thereto, decide to seek competitive bids for carrying out the works envisaged in a Change of Scope; provided that the Concessionaire shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two per cent) of the bid amount to the Concessioneing Authority, and thereupon securing the award of such works or services. For the avoidance of doubt, it is agreed that the Concessionaire shall be entitled to exercise such option only if it has participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten percent) thereof; and
- (h) If during the pendency of the Agreement, the Concessionaire determines at any time that a Change of Scope is necessary for providing safer and improved Project Facilities and Services, it shall by notice in writing request the Concessioneing Authority to consider such Change of Scope. The Concessionaire may implement the Project and provide Project Facilities and Services in accordance with the Change of Scope as may be approved in writing by the Concessioneing Authority and all the provisions of this Article 6 for the Project Implementation shall mutatis mutandis apply. Provided, it is clarified that the provisions contained in Article 6.8 (f) and (g) shall not apply to a Change of Scope required by the Concessionaire.

6.9 Liquidated Damages

Subject to any of the provisions of this Agreement providing for extension of time for performance or excuse from performance, as the case may be, of any of the obligations of the Concessionaire under this Agreement, the Concessionaire shall pay to the Concessioneing Authority liquidated damages at the rate of 0.1% (zero point one percent) of the Performance Guarantee for every Day of delay in fulfilling the specified obligations on or before a Milestone Date including a delay in obtaining the Completion Certificate or the Provisional Certificate on or before the Scheduled Project Completion Date. Provided such liquidated damages shall not in aggregate exceed 5% (five percent) of the Estimated Project Cost and unless the delay is in obtaining of the Completion Certificate or the Provisional Certificate, shall not be payable for less than 15 (fifteen) Days of delay from a Milestone Date, in fulfilling a specified obligation. The Parties agree that the liquidated damages as provided are a genuine pre-estimate of the damages the Concessioneing Authority is likely to suffer and are not by way of a penalty. In case the aggregate delay exceeds 180 (one hundred and eighty) Days or the aggregate liquidated damages paid and/or payable under this provision exceeds the specified limit of 5% (five percent) of the Estimated Project Cost, the Concessioneing Authority shall be entitled to terminate this Agreement and the consequences of termination as laid down in Article 16.5 shall follow. The Concessioneing Authority may, at its discretion recover any amounts with respect to liquidated damages from the Performance Guarantee.



ARTICLE 7

OPERATIONS & MAINTENANCE

7.1 (a) Obligations of the Concessionaire

In addition to any of its other obligations under this Agreement, the Concessionaire shall manage, operate, maintain and repair the Project Facilities and Services, entirely at its cost, charges, expenses and risk in accordance with the provisions of this Agreement. The Concessionaire's obligations under this Article 7.1 shall include but shall not be limited to the following:

(i) Berth and Terminal Operations:

The Concessionaire shall:

- (a) promptly commence operations upon the Project Facilities and Services being declared by the Concessioneing Authority as ready for operations;
- (b) make efforts to maximise cargo handled so as to achieve optimal utilization of the Project Facilities and Services;
- (c) ensure compliance of the Project Facilities and Services at least with the Project Requirements;
- (d) ensure compliance of the Project Facilities and Services at least with the Performance Standards;
- (e) ensure that the Project Facilities and Services shall adhere to the Operations and Maintenance Standards and Safety Standards and there is safe, smooth and uninterrupted flow of traffic normal operating conditions;
- (f) minimise disruption to traffic in the event of accidents or other incidents affecting the safety and use of the Project Facilities and Services by providing a rapid and effective response and maintaining liaison with emergency services of the Concessioneing Authority or other agencies;
- (g) make available all necessary financial, technical, technological, managerial and other resources for operation, maintenance, repair and replacement of the Project Facilities and Services in a timely manner;
- (h) except for the priority and preferential berthing that may be authorized in terms of guidelines issued by the Government from time to time, manage and operate the Project Facilities and Services on a first come - first serve, common-user basis, open to any and all shipping lines, importers, exporters, shippers, consignees and receivers, and refrain from indulging in any unfair or discriminatory practice against any user or potential user thereof;

- (i) ensure maintenance of proper and accurate record / data / accounts relating to operations of the Project Facilities and Services and the revenue earned therefrom;
- (j) obtain, maintain and comply with Applicable Permits and comply with the Applicable Laws including those relating but not limited to dock side safety, health, environment and labour;
- (k) subject to the provisions of this Agreement, perform, undertake or provide, in connection with the Project, all services which the Concessioning Authority is authorized to perform, undertake or provide under the provisions of the MPT Act; and
- (l) prevent, with the assistance of concerned law enforcement agencies, any encroachment or unauthorized use of the Project Facilities and Services.

(ii) **Repairs and Maintenance**

The Concessionaire shall at its own cost:

- (a) repair as necessary and maintain the Project Facilities and Services or any part thereof in accordance with the Project Requirements and for this purpose carry out routine preventive measures and maintenance of the Project Facilities and Services including resurveying of pavement, repair structures and repair and refurbish equipments; and
- (b) maintain the Project Facilities and Services in accordance with the provisions of this Agreement and Good Industry Practice with the objective of providing adequate service standards and ensuring that the Project Facilities and Services to be transferred to the Concessioning Authority upon expiry of the Concession Period are in good condition, normal wear and tear excepted.
- (c) The Concessionaire shall carry out capital dredging at the berth to a depth of (-) 16.10m in phases as set out in Appendix 4 and maintain the dredged depth accordingly up to 50m from the face line of the berth including conducting periodical hydrographic surveys.

(iii) **Replacement of Equipment**

The Concessionaire shall at its cost, plan for replacement of the equipment well ahead of the time when the utility thereof is reasonably expected to expire and replace the equipment in accordance with Good Industry Practice so as to ensure that the Project Facilities and Services commensurate with the Project Requirements, at all times during the Concession Period.

(iv) Repairs, Replacement or Restoration

The Concessionaire shall at its own costs, promptly and diligently repair, replace or restore any of the Project Facilities and Services or part thereof which may be lost, damaged, or destroyed for any reason whatsoever.

(v) Removal / Replacement of Assets

Except as provided / authorized under this Agreement the Concessionaire shall not, without the prior written intimation to the Concessioneing Authority, remove or replace any assets comprised in the Project Facilities and Services. Such notice shall contain the exact details of the assets that the Concessionaire intends to remove and/or replace, its reasons for doing so and the likely period for replacement.

(vi) Payments to the Concessioneing Authority

The Concessionaire shall make / ensure payments to the Concessioneing Authority as per Article 9.

(vii) Access for Inspection

The Concessionaire shall be obliged to extend all co-operation to Experts appointed by the Concessioneing Authority for purposes of verifying that the Project / the Project Facilities and Services are operated and maintained in compliance with the Performance Standards and adhere to the Operations and Maintenance Standards and Safety Standards. Such verification shall be made annually. Additionally, the Concessionaire shall upon prior intimation by the Concessioneing Authority provide the authorized representatives of the Concessioneing Authority access to the Port's Assets / the Project Facilities and Services for inspection and review of operations and also to ascertain compliance with any of the requirements under this Agreement. Without prejudice to the generality of this provision, it is agreed by the Concessionaire shall in particular extend all co-operation and information required by the Experts appointed by the Concessioneing Authority for conducting a safety audit and verifying that the Project / Project Facilities and Services are in strict compliance with the Safety Standards.

(viii) Reports²²

The Concessionaire shall provide to the Concessioneing Authority, Monthly reports on cargo traffic, unit gross output / discharge rates at berth, dally output rated per vessel, Tariff earned and collected in respect of Project Facilities and Services and effective working time to waiting within 15 (fifteen) Days following the end of each Month, and any other information relating to operations which the Concessioneing Authority may require from time to time. If so desired by the Concessioneing Authority, the Concessionaire shall provide

the reports in prescribed formats and in electronic form so as to provide online access to the Concessions Authority and its representatives.

(ix) **Computer System and Network**

The Concessionaire shall install, operate and maintain such computer system and network (such as Electronic Data Interchange and Port Community System) and follow such protocol as the Concessions Authority may specify from time to time.

(x) **Security Arrangements**


The Concessionaire may make his own arrangements for security in the Project Site/Port Assets and with respect to the Project provided the Concessionaire shall abide by the security regulations / procedures prescribed by the Concessions Authority or a Government Authority from time to time. It shall also conform to and assist the Concessions Authority or any authority responsible therefor in conforming to the International Ship and Port Facility Security Code ("ISPS Code") and such other codes/requirements of International Maritime Organization as may be applicable to India from time to time.

The Concessions Authority at the discretion of the Central / State Government may induct CISF or such other force as the Central / State Government decides whenever necessary for security in the Project Site / Project Assets at the cost of the Concessions Authority.

(xi) **Employment of Personnel**

The Concessionaire shall employ qualified and skilled personnel required to operate the Project Facilities and Services. The terms of employment may be as deemed fit by the Concessionaire and the Concessionaire shall comply with all Applicable Laws and bear all costs in this regard. Without prejudice to the generality of this provision, all requisite approvals for employment of personnel of foreign origin or nationality shall be obtained by the Concessionaire prior to engaging such personnel. Failure to obtain approval will not amount to a Force Majeure Event. All employees shall always remain the Concessionaire's responsibility.

All labour law compliances shall be that of the Concessionaire alone.

 ²² This provision may be modified depending on the Performance Standards stipulated on a project specific basis so as to ensure that the reports received by the Concessions Authority will enable it to effectively evaluate performance.

²³ The specific terms agreed in respect of a particular project regarding employment of existing port personnel (as included in the bid documents) would need to be set out in Appendix 12.

²⁴ To be stipulated only in cases where a fully functional facility is being handed over to the Concessionaire or in case where a new facility is handed over, adjacent to an existing one and a fair assessment of expectations from such new facility can be made.

(xii) "Minimum Guaranteed Cargo"

The Concessionaire hereby unconditionally guarantees the Concessioning Authority annual cargo handling of the levels set out in Appendix-14 ("Minimum Guaranteed Cargo") and agrees that except as provided in this Agreement, it shall not be entitled to any relaxation of its guarantee in this respect.

(xiii) Indemnity Against Claims for Loss of Goods

Notwithstanding anything contained in the MPT Act or any other law for the time being in force, the Concessionaire shall be responsible for meeting any claim, action, suit or proceeding (the "Action") by any third party alleging the loss, destruction or deterioration of goods of which charge has been taken by the Concessionaire and indemnify, save and hold harmless the Concessioning Authority, its officers, employees, agents and representatives (the "Indemnitees") against all claims which may be asserted against or suffered and legal fees and costs incurred and which relate to any such goods, provided that notice of the Action received by the Indemnitee(s) shall be forwarded to the Concessionaire expeditiously and in any case within 7 (Seven) Days of the receipt thereof by any of the Indemnitees. Provided further that the Indemnitees shall have the right but not the obligation, to contest, defend and litigate any Action by any third party alleged or asserted against any of such Indemnitees in respect of, resulting from, related to or arising out of any matter for which it is to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Concessionaire. If the Concessionaire acknowledges in writing its obligation to indemnify the Indemnitees in respect of loss to the full extent, the Concessionaire shall be entitled, at its option, to assume and control the defence of such Action at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnitees and reimburses to them for the reasonable cost and expenses incurred by them prior to the assumption of such defence by the Concessionaire. In such case the Indemnitees shall not be entitled to settle or compromise any Action without the prior written consent of the Concessionaire, which consent shall not be unreasonably withheld or delayed. This indemnity shall survive termination of this Agreement.

(b) Rights of the Concessionaire

(i) Preferential and Priority Berthing

The Concessionaire may offer preferential or priority berthing to any one or more shipping lines or vessel owners / operators to optimize the use of the Project Facilities and Services. Such preferential or priority berthing shall be subject to the priority berthing norms as may be mutually determined by the Parties in accordance with Applicable Laws or guidelines issued by the Government from time to time in respect thereof, if any.

(ii) Unclaimed cargo

The Concessionaire may at its cost:

- (a) after obtaining prior written approval of the Commissioner of Customs or other competent Government Authority and in accordance with the provisions of Applicable Law, destroy or dispose off by way of public auction and/or tender, any unclaimed cargo, the charge of which has been taken by Concessionaire under or pursuant to this Agreement, and always subject to provisions of MPT Act and other laws in this regard.
- (b) institute proceedings for recovery of unrealized charges, if any, in its name and/or defend any claim made in respect of such cargo by consignee/owners. The Concessioneing Authority agrees to provide all reasonable assistance necessary in this regard to the Concessionaire.

(c) Obligations of the Concessioneing Authority

In addition to any of its other obligations in this Agreement, the Concessioneing Authority shall arrange for and provide the following:

(i) Marine and Port Services

The Concessioneing Authority shall provide / cause to be provided; to the Concessionaire, the following services:

- (a) scheduling the entry, berthing and sailing of the vessels, pilotage and towage on a non-discriminatory basis subject to priority berthing norms and the sailing schedule as determined by the Deputy Conservator of the Port depending on individual ship characteristics and tidal conditions;
- (b) maintenance of the entrance channel depth ^{-11.80} (-)12.10 m initially and (-) 13.50 m & (-) 16.10 m. in phases in future as per the deepening plans of the Concessioneing Authority.
- (c) waterside safety and safety of navigation;
- (d) Maintenance of the dredged depth at berth in the area beyond 50m. from the face line of the berth at ^{initially} (-)12.10 m at present and (-) 13.50 m & (-) 16.10 m. in phases in future as per the deepening plans of the Concessioneing Authority.
- (e) Maintenance of commensurated dredged depths at Turning Basin including access channels.
- (f) carry out maintenance dredging operations, if any that may be required in terms of Clause 7.1(c)(i)(b) and 7.1(c)(i)(d) to ensure the

depth to be maintained at the levels agreed under this Agreement, with minimum inconvenience to or dislocation of the Project Facilities and Services;

- (g) provision and maintenance of all general port infrastructure other than those covered under the Concession, necessary for management, operation and maintenance of the Project Facilities and Services;
- (h) assist the Concessionaire in securing the assistance of CISF or the relevant Government Authority as may be necessary to prosecute any persons for any offence committed by them within the Project Site; and
- (i) evolve mutually acceptable mechanism for sharing of common costs by existing and future terminal operators.


(ii) Approvals

The Concessions Authority shall promptly grant approvals/consents sought by the Concessionaire as required under this Agreement subject to the Concessionaire having complied with all Applicable Laws/requirements in this regard.

7.2 Utilities and Services²⁶

The Concessions Authority shall during the Concession Period provide access to the Concessionaire to all infrastructure facilities and utilities including water, electricity facilities necessary for the implementation, operations and maintenance of the Project / Project Facilities and Services in accordance with this Agreement, at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers availing substantially equivalent facilities and utilities. Provided unless otherwise agreed to by the Concessions Authority:

- (a) the power made available shall be as received by the Concessions Authority from AP TRANSCO.
- (b) the water made available shall be as received by the Concessions Authority from Greater Visakhapatnam Municipal Corporation (GVMC). The take off point for water shall be the nearest available water line;

 ²⁵ To be retained as applicable.

²⁶ To be retained as applicable

- (c) the Concessionaire shall, at its cost, and to the satisfaction of the Concessioning Authority, install meters to measure the consumption of power and water. The Concessioning Authority does not warranty the reliability, quality and quantity of water and power and shall not be liable in any manner for the shortage in or non-supply of these utilities;
- (d) The Concessionaire may, at its cost, make alternate arrangements for power including but not limited to installation of generators, subject to obtaining Applicable Permits, if any, therefor.
- (e) The Concessionaire may, at its cost, make alternate arrangements for adequate infrastructure facilities and utilities including Water, Electricity and Communication facilities necessary for the implementation, Operation and Maintenance of the Project;

7.3 Liability for shortfall in performance

In the event the Concessioning Authority, whether from the review of reports submitted by the Concessionaire in accordance with the provisions of this Agreement or otherwise, observes that the Project / Project Facilities and Services do not comply with the Performance Standards or fall short of the Performance Standards, the Concessioning Authority shall calculate the amount of liquidated damages payable by the Concessionaire in accordance with Appendix 15 of this Agreement and demand the Concessionaire by a notice in writing to pay the same within 30 (thirty) Days and on failure of the Concessionaire to pay the same recover the amount from the Concessionaire. Provided that on receipt of the demand the Concessionaire may make a written representation to the Concessioning Authority which shall be considered by the Concessioning Authority on merits and the Concessioning Authority may waive the liquidated damages in part or full, if it is satisfied that the Concessionaire has been carrying out its obligations diligently and efficiently and the shortfall to be waived was on account of reasons beyond the control of the Concessionaire.

It is clarified that this provision does not prejudice the rights of the Concessioning Authority upon a Concessionaire Event of Default as set out in Article 15 including the Concessioning Authority's right to terminate this Agreement which shall remain unaffected.

ARTICLE 8

TARIFF

8.1 Levy and Recovery of the Tariff

The Concessionaire shall be entitled to recover Tariff from the users of the Project Facilities and Services as per the Tariff Notification, an extract of which is set out in Appendix 12. The Tariffs shall be revised in the manner set out in Appendix 12 and duly notified from time to time by the TAMP under Sections 48, 49 and 50 of the MPT Act or such other competent authority under the Applicable Laws. The Tariff Notification prescribes the maximum Tariff that can be levied by the Concessionaire and the Concessionaire may charge lower than the rates prescribed. As of the date hereof, the applicable Tariff guidelines are as set out in Appendix 12. The Concessionaire shall, subject to Article 8.2 hereunder, deposit all Tariff and other receipts in relation to the Project Facilities and Services in the Escrow Account and shall not make any such deposits to any other account either of the Concessionaire or of any other person.

8.2 Collection of Cesses and Charges

The Concessionaire shall collect all cesses and charges including infrastructure cess, if any levied on the users as may be requested by the Concessioneing Authority, on behalf of the Concessioneing Authority and remit the same to the Concessioneing Authority. Provided, the Concessionaire shall be duly authorized by the Concessioneing Authority or such other authority as may be competent in this regard, for the purpose of such collection.



ARTICLE 9

PAYMENTS TO THE CONCESSIONING AUTHORITY

9.1 License Fee

- (a) The Concessionaire shall, as consideration for the use, in its capacity as a bare licensee of the Project Site (land) comprised in the Port's Assets, made available in accordance with Article 2.4, pay to the Concessioning Authority the sum of Rs 6.20 million (Rupees six decimal two zero million Only) (as specified in the bid documents) (the "License Fee") towards annual land lease rental for the extent of land 50,000 Sq.m. for storage facilities and 10,000 Sq.m. for backup area. Such amount shall be paid by the Concessionaire every year as agreed upon.

The annual land lease rentals will be escalated every year @ 2% on land lease rentals prevailing from time to time. The land lease rentals as per *Schedule* of rates prevailing from time to time shall be payable by the Concessionaire to Concessioning Authority for the land leased.

The Concessionaire shall also pay 1(one) year rent as premium, 1(one) year rent as advance and 5(five) years rent as Security Deposit* for allotment of the above-mentioned land. The Security Deposit can be in the form of Bank Guarantee.

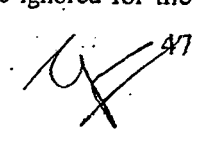
In addition to the above a lump sum amount of Rs 68.00 (Rupees sixty eight) Million shall be payable by the Concessionaire as upfront fee as other facilities viz. Lighting, roads, drains, culverts, dredging etc. made available by the Concessioning Authority and towards the amount spent for infrastructure development.

* The land policy guidelines as on the date of opening of RFP will be made applicable.

- (b) Any delay in payment of the amount in the preceding clause (a) shall entail payment of interest @ SBI PLR plus 2% (two percent) per annum on the amount outstanding.

9.2 Payments of Royalty

- (a) The Concessionaire shall pay to the Concessioning Authority Royalty per Month equivalent to [•] % ([•] percent) of the Gross Revenue chargeable by the Concessionaire ("the Royalty").
- (b) Gross Revenue shall be computed on the basis of the maximum Tariffs leviable for and in respect of the Project Facilities and Services provided during the relevant period of computation. It is clarified that discounts and deferments, if any offered by the Concessionaire to the users or amounts if any not collected by the Concessionaire for any reason whatsoever in respect of the Project Facilities and Services, shall be ignored for the



purpose of Gross Revenue. Further, in computing the Gross Revenue, income from interest, sale of assets, amounts received by the Concessionaire by way of damages from third parties (excepting damages received from the users on account of demurrage or such other related charges in respect of the Project Facilities and Services), taxes and cesses in respect to the Project Facilities and Services, if any collected and paid to any Government Authority shall also be ignored.

- (c) Royalty for each Month shall be paid on or before the seventh Day of the immediately succeeding Month.
- (d) The payment of Royalty shall commence from the Month in which the Concessionaire commences to provide any Project Facilities and Services, and shall be irrespective of Date of Commercial Operation.
- (e) Royalty amounts remaining unpaid on respective due dates would carry interest @ SBI PLR plus 2% (two percent) per annum from the due date till the date of payment or realization thereof.

9.3 Utilities or Services

The Concessionaire shall also pay rent or other charges for any premises (other than the Project Site / Project Assets) or additional utilities or services, made available by the Concessioneing Authority to the Concessionaire in accordance with the terms, conditions and covenants including on payment of rates specified by the Concessioneing Authority. Such rates shall be the Schedule of Rates in respect of land and twice the Scale of Rates for all other utilities and services and as may be notified by the competent authority in respect thereof from time to time (the present rates applicable in respect of land, utilities and services are set out in Appendix 13).

9.4 Certified Accounts

During the subsistence of this Agreement, the Concessionaire shall maintain all documents and supporting evidences for its financial statements including agreements and documents with respect to all capital and debt raised by the Concessionaire, capital and revenue expenses towards the Project, ship / vessel / user wise information, and, as relevant, the details of cargo handled by category, tariffs charged and the amount of rates received. The Concessionaire shall submit to the Concessioneing Authority a financial statement of the Gross Revenue for every 6 (six) monthly period ending 30th September and 31st March every year, duly certified by its Statutory Auditors. The certificate must be furnished within 30 (thirty) Days of the end of each such period.

The Concessioneing Authority shall, at its own cost, have the option to appoint another firm of chartered accountants duly licensed to practice in India (the "Additional Auditor") to conduct a special audit of the Gross Revenue and the financial statements, documents and supporting evidences thereto as may be mandated by the Concessioneing Authority and report to the Concessioneing Authority such information as may be desired by the Concessioneing Authority for any period and the Gross Revenue ("Special Audit").

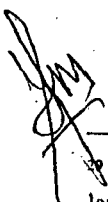
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In the event that the Gross Revenue reported by the Additional Auditor is higher than that reported by the Statutory Auditor, the auditors shall meet to resolve such differences and if they are unable to resolve the same the Concessionaire shall pay Royalty on the Gross Revenue reported by the Additional Auditor. The Concessionaire shall also pay interest @ SBI PLR plus 2% (two percent) on the difference between the Royalty paid by the Concessionaire based on the Gross Revenue reported by the Statutory Auditor and that payable by the Concessionaire based on the Gross Revenue reported by the Additional Auditor for the intervening period between the payment of the Royalties as above. Further the Concessionaire shall reimburse all costs, charges and expenses related to the Special Audit. Without prejudice to the aforesaid, if the difference between the Gross Revenue reported by the Additional Auditor and that reported by the Statutory Auditor is higher than 5% (five percent), the Concessioning Authority shall at its sole discretion have the right to require a Special Audit for the entire outstanding tenure of the Concession.

9.5 Escrow Account

The Concessionaire shall maintain an escrow account with a bank approved by the Lenders ("Escrow Account"), during the subsistence of this Agreement and enter into an agreement substantially in the format prescribed in Appendix 16 with such bank to ensure that all proceeds for financing the Project and all revenues and other receipts arising from the Project and under any agreements, including this Agreement received by the Concessionaire are deposited into such Escrow Account. Provided, the Concessionaire shall not deposit any amounts including the cesses and duties collected by it from the users on behalf of the Concessioning Authority or such other authority in accordance with Article 8.2 hereof or pursuant to any other instructions in respect thereof in the Escrow Account and shall deposit the same in a separate account dedicated for the same and maintained by it in trust for the Concessioning Authority or such other authority.

- (a) Withdrawals and appropriations during the Concession Period, at any relevant time, from the Escrow Account shall be in the following order of priority²⁹:
- (i) for all taxes due and payable by the Concessionaire;
 - (ii) towards payment of License Fee;
 - (iii) all construction / implementation expenses relating to the Project / Project Facilities and Services, subject to limits if any set out under the Financing Documents;
 - (iv) all expenses relating to operations and management of the Project / Project Facilities and Services, subject to limits if any set out under the Financing Documents;

 This provision would be discussed at the pre-bid stage and any reasonable requests of the bidders and the lenders would be taken into account with respect to the priority.

- (v) towards its debt service obligations under the Financing Documents;
- (vi) towards payment of Royalty and other sums payable to the Concessioning Authority and liquidated damages, if any;
- (vii) towards any reserve requirements in accordance with the Financing Documents;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the Escrow Account after all the aforesaid payments due in any Quarter have been made and/or adequate reserves have been created in respect thereof for that Quarter. Provided, upon issuance of Termination Notice and / or suspension of the Concessionaire in accordance with the provisions of this Agreement, withdrawal from the Escrow Account shall be made only in accordance with the written instructions of the Concessioning Authority and the Lenders.

- (b) All amounts standing to the credit of the Escrow Account at the end of the Concession Period including amounts credited to the Escrow Account towards compensation payable in accordance with Article 17 shall be appropriated in the following order of priority:

- (i) towards taxes and statutory dues payable by the Concessionaire;
- (ii) compensation to Lenders in terms of the Financing Documents towards discharge of the Concessionaire's liability under such Financing Documents;
- (iii) all amounts due to the Concessioning Authority and amounts payable towards transfer of the Project Facilities and Services by the Concessionaire in accordance with this Agreement;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the Escrow Account after all the aforesaid payments due have been made and / or adequate reserves have been created in respect thereof to the satisfaction of the Lenders and the Concessioning Authority.



ARTICLE 10

ASSETS: OWNERSHIP AND PERMITTED CHARGE

10.1 Ownership of Assets

(a) Land and Water Area

The ownership of the Project Site and Port's Assets shall always remain vested with the Concessioneing Authority. The rights of the Concessionaire in the Project Site and Port's Assets shall only be that of a bare licensee of such assets and the Concessionaire shall neither assign, transfer, sublet, create any charge or Encumbrance, nor shall the Concessionaire create or permit creation of any third party rights whatsoever, on whole or any part of the Port's Assets or Project Site. Further, any such rights of the Concessionaire shall always be subject to existing rights of way. It is expressly agreed that the Concessionaire's rights in the Project Site and / or the Port's Assets shall cease without the need for any action to be taken by the Concessioneing Authority upon the termination of this Agreement for any reason whatsoever.

(b) Assets created or provided by the Concessionaire

The ownership of all infrastructure assets, buildings, structures, berths, wharfs, equipment and other immovable and movable assets constructed, installed, located, created or provided by the Concessionaire at the Project Site and/or in the Port's Assets pursuant to this Agreement shall, until expiry of this Agreement or transfer to the Concessioneing Authority on Termination in accordance with this Agreement, be with the Concessionaire. However, such ownership of buildings etc. erected by the Concessionaire at the Project Site shall not be construed as and shall not confer any rights in the Project Site or other Port's Assets upon the Concessionaire, save as that of a bare licensee as provided for in this Agreement.

10.2 Permitted Charge on Assets

The Concessionaire shall be entitled to create a charge on its rights, title and interest in the assets referred to in Article 10.1(b) in favour of Lenders for securing the Financial Assistance provided or agreed to be provided by them under the Financing Documents. Provided, any such charge shall not be effective before Financial Close and shall not continue for a period exceeding the Concession Period.

Provided further, that such charge shall not be for the Project Site nor encumber the Project Site and / or the Port's Assets.

Provided further, in the event of termination of this Agreement, the said charge shall stand extinguished upon payment of compensation by the Concessioneing Authority to the Lenders, to the extent they are entitled to receive the same in accordance with the provisions of this Agreement.

ARTICLE 11 SHAREHOLDING

11.1 Ownership Structure

The Applicant / Consortium has caused the Concessionaire to be incorporated as a special purpose company to implement, operate and maintain the Project/Project Facilities and Services in accordance with this Agreement. The shareholding pattern of Concessionaire / each member of the Consortium in the Concessionaire is [●].

11.2 Shareholding

The Concessionaire shall ensure that the Applicant / members of the Consortium maintain Management Control at least until expiry of the Exclusivity Period³⁰ as also maintain their equity holding in the Concessionaire such that³¹:

- (a) The Applicant / members of the Consortium legally and beneficially hold not less than 51% (fifty one percent) of its paid up equity capital until 3 (three) years after Date of Commercial Operations and not less than 26% (twenty six percent) of its paid up equity capital during the balance Concession Period; and
- (b) M/s [●] ("Lead Member") legally and beneficially holds at any time not less than 26% (twenty six percent) of the Consortium's holding in the paid up equity capital of the Concessionaire.

Notwithstanding the aforesaid, any Transfer of shareholding in the Concessionaire and /or direct or indirect change in the Management Control of the Concessionaire, including by way of a restructuring or amalgamation, shall only be with the prior written approval of the Concessioneing Authority which consent shall not be withheld except (i) for reasons of national security; or (ii) if the Person proposed for assuming such Management Control would by virtue of the restrictions imposed under the Applicable Law or the conditions of bidding (including restrictions to avoid anti-competitive and monopolistic practice) and/or public policy be disqualified from undertaking the Project.

Provided, nothing contained in this Article shall preclude or prevent pledge of shares in the Concessionaire in favour of Lenders as security for the Financial Assistance subject to the enforcement and consequent Transfer thereof only with the prior written consent of the Concessioneing Authority as stated hereinbefore and in accordance with the Financing Documents.

³⁰ Where there is no Exclusivity Period prescribed, this would be expiry of 3 years from the Date of Commercial Operations.

³¹ This provision would be edited depending on whether the bidder is a single applicant or a Consortium. Sub Article (b) will be omitted in case the bidder is a single Applicant.

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11.3 Constituent Documents

The Concessionaire shall ensure that its Articles of Association ("AoA") adequately reflect the aforesaid and the relevant commitments, obligations and responsibilities of the Applicant / Consortium.

In particular, the AoA and the Memorandum of Association ("MoA") of the Concessionaire shall be amended within 3 (three) months of the Date of Award of Concession to include the terms and conditions regarding the composition of share-holding and management stipulated in this Agreement; and terms and conditions related to changes in the share-holding pattern stipulated in this Agreement. The Concessionaire shall submit the amended AoA and the MoA to the Concessions Authority as soon as may be reasonably possible.

Any subsequent change in the AoA or the MoA which alter the provisions required by this Article shall require the prior approval of the Concessions Authority and the AoA and MoA of the Concessionaire shall include a specific provision to this effect.



ARTICLE 12

GENERAL RIGHTS, DUTIES AND OBLIGATIONS

12.1 Of the Concessionaire

(a) Applicable Permits

The Concessionaire shall at all times during the Concession Period maintain and comply with the Applicable Permits.

(b) Taxes & duties

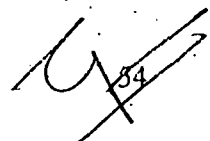
The Concessionaire shall during the Concession Period pay in a timely manner all taxes, duties, levies, VAT, cess and charges including but not limited to income tax, sales tax, excise duty, customs duty, service tax and octroi that may be levied, claimed or demanded from time to time by any Government Authority including any increase therein effected from time to time from any Government Authority, in respect of the Project/ the Project Facilities and Services.

(c) Insurance

(i) Insurance Requirement

The Concessionaire shall, at its cost and expense, purchase and maintain insurances as are prudent, including but not limited to the following:

- (a) builder's all risk insurance;
- (b) loss, damage or destruction of the Project Facilities and Services, at replacement value;
- (c) comprehensive third party liability insurance including injury or death to personnel of the Concessioneing Authority and others who may enter the Project Site or the Port's Assets;
- (d) workmen's compensation insurance;
- (e) marine cum storage cum erection insurance; and
- (f) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets and the Concessioneing Authority, its employees and agents engaged in or connected to the Project and the Project Site and Port Assets (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (e).



(ii) **Insurance Cover & Insurance Companies**

The Concessionaire shall insure all insurable assets comprised in the Port's Assets and/or the Project Facilities and Services and all insurable risks associated with the Project to the extent advisable in accordance with Good Industry Practice ("Insurance Cover").

(iii) **Evidence of Insurance Cover**


The Concessionaire shall, from time to time, provide to the Concessioneing Authority copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Concessionaire in accordance with this Agreement.

(iv) **Application of Insurance Proceeds**

Subject to the provisions of the Financing Documents, all moneys received under insurance policies shall be promptly applied by the Concessionaire towards repair or renovation or restoration or substitution of the Port Assets and the Project Facilities and Services or any part thereof which may have been damaged or destroyed and in respect of which the claim is lodged. The Concessionaire may designate the Lenders as the loss payees under the insurance policies/assign the insurance policies in their favour as security for the Financial Assistance. The Concessionaire shall carry out such repair or renovation or restoration or substitution to the extent possible in such manner that the Project Facilities and Services or any part thereof, shall, after such repair or renovation or restoration or substitution be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.

(v) **Validity of the Insurance Cover**

The Concessionaire shall pay the premium payable on such insurance policy(ies) so as to keep the policy(ies) in force and valid throughout the Concession Period and furnish copies of the same to the Concessioneing Authority. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 (ten) Days' clear notice of cancellation is provided to Concessioneing Authority in writing. If at any time the Concessionaire fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, the Concessioneing Authority may at its option purchase and maintain such insurance and all sums incurred by the Concessioneing Authority therefor shall be reimbursed with interest @ SBI PLR plus 2% (two percent) per annum by the Concessionaire forthwith on demand, failing which the same shall be recovered by the Concessioneing Authority by exercising right of set off or otherwise.



(vi) Waiver of Subrogation

All insurance policies procured in terms of the provisions hereof shall include a waiver of any right of subrogation of the insurers there under against, inter alia, the Concessioneing Authority and its assigns and successors and their respective subsidiaries, affiliates, employees and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

(d) Indemnification

The Concessionaire shall during the pendency of this Agreement and thereafter until all claims and demands in respect to the acts and omissions during the period of the Agreement as described hereunder are duly settled, indemnify and keep indemnified and otherwise save harmless, the Concessioneing Authority, its agents and employees, from and against all claims, demands made against and/or loss caused and/or damages suffered and/or cost, charges/expenses incurred to and/or penalty levied and / or any claim due to injury to or death of any person and/or loss or damage caused or suffered to property owned or belonging to the Concessioneing Authority, its agents and employees or third party as a result of any acts, deeds or thing done or omitted to be done by the Concessionaire or as a result of failure on the part of the Concessionaire to perform any of its obligations under this Agreement or on the Concessionaire committing breach of any of the terms and conditions of this Agreement or on the failure of the Concessionaire to perform any of its duties and/or obligations including statutory duties or as a consequence of any notice, action, suit or proceedings, given, initiated, filed or commenced by consignee or owner of goods or vessel owner / agent or its employees or any third party or Government Authority or as a result of any failure or negligence or default of the Concessionaire or its Contractor(s), sub-contractor(s), or employees, servants, agents of such Contractor(s) and/or sub-contractor(s) and / or invitees as the case may be, in connection with or arising out of this Agreement and/or arising out of or, in connection with the Concessionaire's use and occupation of the Project Site or Port's Assets and/or construction, operation and maintenance of the Project Facilities and Services.

(e) Assignability

Except as otherwise provided in this Agreement, the Concessionaire shall not assign its rights, title or interest in this Agreement in favour of any Persons without prior written consent of the Concessioneing Authority.

Provided the Concessionaire may assign its rights, interests and benefits under this Agreement to the Lenders as security for the Financial Assistance. Provided further nothing contained in this Article shall:

- (i) absolve the Concessionaire from its responsibilities to

perform /discharge any of its obligations under and in accordance with the provisions of this Agreement; and

- (ii) authorize or be deemed to authorize the Lenders to operate the Project Facilities and Services themselves and any such assignment to operate shall be in terms of the Substitution Agreement.

(f) **Engagement of Contractors**

The Concessionaire shall engage the Management Contractor and execute the Management Contract, thereby entrusting the Management Contractor with the responsibilities of operating and managing the Project Facilities and Services in the manner envisaged under the Request for Proposal.³² A copy of the Management Contract shall be provided to the Concessioneing Authority and the same shall not be amended, substituted or revoked without the prior written consent of the Concessioneing Authority.

The Concessionaire may engage any Person possessing the requisite skill, expertise and capability for designing, engineering, procurement and construction of civil / mechanical / electrical engineering structures / equipment, and / or operation and maintenance of the Project Facilities and Services.

Provided:

- (i) the Concessionaire shall at all times be solely responsible for all its obligations under this Agreement notwithstanding any such engagement and anything contained in any Project Contracts or any other agreement, and no default under any Project Contract or agreement shall excuse the Concessionaire from its obligations or liability hereunder and the Concessionaire shall at all times be solely responsible for non performance or for any defect, deficiency or delay in the construction and erection and / or installation of the structures / equipment or any part thereof and for the operation and maintenance of the Project / the Project Facilities and Services in accordance with the provisions of this Agreement;
- (ii) the Concessionaire should have obtained requisite security clearance for the Contractor the Concessionaire intends to engage;
- (iii) the Concessionaire shall ensure that the Project Contracts contain provisions that entitle the Concessioneing Authority to step into such contract in its sole discretion in substitution of the Concessionaire in the event of termination or suspension of this Agreement; and
- (iv) any contract that it enters with an Affiliate in respect of the Project shall be on an arms length basis.

³² This may be added in cases where the project has been awarded on the strength of the management contractor.

(g) Condition Survey

- (i) The Concessionaire agrees that at least 6 (six)³³ Months prior to the expiry by efflux of time of the Concession Period, it shall, cause to be conducted at its cost by an Expert appointed by the Parties by mutual consent, a condition survey and an inventory of the entire Project Facilities and Services. If, as a result of such survey, the Expert shall observe / notice that the Port's Assets and/or the Project Facilities and Services or any part thereof have/has not been operated and maintained in accordance with the requirements therefor under this Agreement (normal wear and tear excepted) the Concessionaire shall, at its cost and expenses, take all necessary steps to put the same in good working condition well before the Transfer Date. In the event the Concessionaire fails to comply with this provision, the Concessioneing Authority may itself cause the condition survey and inventory of the Port's Assets and Project Facilities and Services to be conducted and remove any defect or deficiency. The Concessioneing Authority shall be promptly reimbursed by the Concessionaire for the costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities and Services in a good working condition.
- (ii) The Concessionaire shall as security for performance of its obligation in the preceding sub-article (i), provide/submit to the Concessioneing Authority a guarantee issued by a scheduled bank in India for a sum of Rs 57,250,000 (Rupees fifty seven million two hundred fifty thousand only) Only) at least 2 (two) years prior to the expiry of the Concession Period. In the event of Concessionaire's failure to provide such guarantee, the same shall be deemed to be a Concessionaire Event of Default and the Concessioneing Authority shall accordingly be entitled to terminate this Agreement in accordance with Article 15.

12.2 Of the Concessioneing Authority

(a) Assistance in obtaining Approvals, Permits and Licenses

The Concessioneing Authority shall, at the written request of the Concessionaire, but without guarantees and/or without assuming any responsibility in that behalf, issue recommendatory letters and make best efforts to assist the Concessionaire in obtaining all the Applicable Permits including renewals thereof. Provided that, nothing contained in this Article shall relieve the Concessionaire of its obligations under this Agreement to obtain the Applicable Permits and to keep them in force and effect throughout the Concession Period.

³² This period could vary depending on the Project/Concession so as to ensure adequate time for both the survey and restoration of assets.

³⁴ 3-5% of the Estimated Project Cost recommended

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(7b) Taxes and Duties

Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of Port's Assets payable to the State Government or any statutory authority shall be met and paid by the Concessioneing Authority.

(c) Competing Facilities³⁵

The Concessioneing Authority shall not operationalise any additional facility within Port Limits for handling multipurpose cargoes other than liquid and container cargoes either on its own or through any other Person until the earlier of (i) 5 (five) years from the Scheduled Project Completion Date; or (ii) the average annual volume of cargo handled at the Project Facilities and Services reaches a level of 75% (seventy five percent) of Project Capacity for 2 (two) consecutive years ("Exclusivity Period"). Provided, this restriction shall not apply to the additional facility envisaged as below:

- i) Mechanization of Coal handling facilities and upgradation of General Cargo berth (GCB) at outer harbour of Visakhapatnam Port to cater to 200,000 DWT vessels on DBFOT basis.
- ii) Installation of Mechanized fertilizer handling facility at EQ7 in the inner harbour of Visakhapatnam Port on DBFOT basis.
- iii) Development of mechanized handling facility for iron ore at inner harbour of Visakhapatnam Port.
- iv) Development of South Cargo Berth (SCB) for handling Thermal Coal and other multipurpose cargoes at East Dock in inner harbour of Visakhapatnam Port On Design, Build, Finance, Operate and Transfer (DBFOT) basis.
- v) Development of WQ8 berth including mechanized handling facility in the northern arm of inner harbour of Visakhapatnam Port for handling Alumina, Caustic Soda Lye and other bulk cargoes.
- vi) Development of WQ7 berth including mechanized handling facility in the northern arm of inner harbour of Visakhapatnam Port for handling Alumina, Caustic Soda Lye and other bulk cargoes.

(d) General rights of inspection and verification

The Concessioneing Authority may during the pendency of the Agreement itself or by appointment of Experts verify the performance of obligations of the Concessionaire as set out in this Agreement.

12.3 *Of the Concessioneing Authority and the Concessionaire*

(a) Compliance with Laws and Regulations

The Parties shall perform their respective obligations under this Agreement in accordance with the Applicable Laws and Applicable Permits.

(b) Rights to Documents

(i) Concessioneing Authority's Documents

Documents and computer programs or copies thereof, if any, provided by the Concessioneing Authority to the Concessionaire, shall always remain the property of the Concessioneing Authority. Such documents, computer programs and/or copies shall not be used by the Concessionaire for the purposes other than for the Project. Such documents, computer programs and/or copies thereof shall, unless otherwise agreed upon by the Concessioneing Authority, be returned by the Concessionaire to the Concessioneing Authority on the Transfer Date.

(ii) Concessionaire's Documents

Documents and computer programs provided by the Concessionaire, or which are developed (and owned by the Concessionaire) for operation and / or maintenance of the Project / the Project Facilities and Services shall be handed over by the Concessionaire to the Concessioneing Authority free of cost on the Transfer Date.

(iii) Confidentiality

All confidential information and documents (whether financial, technical or otherwise) provided by either Party to the other shall not, unless compelled by law or the process of a Government Authority, be disclosed to any Person without the consent of the other Party with the exception of providing such information to legal advisors/auditors of the concerned party on a need-to-know basis. This covenant shall survive the Concession Period.

(iv) Obligation to Cooperate

The Parties shall mutually cooperate with each other in order to achieve the objectives of this Agreement.

(v) Substitution Agreement

The Substitution Agreement envisaged by Appendix 3 hereunder, will/may be executed within 30 (thirty) Days' of notice by the Concessionaire to the Concessioneing Authority of the Lenders' readiness to execute the same.

ARTICLE 13

CHANGE IN LAW

13.1 Change in Law

"Change in Law" means any of the following events which has a Material Adverse Effect:

- (a) adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government Authority of any statute, rule, ordinance, regulation or order, treaty, convention, directive, guideline, policy having force of law; or
- (b) the imposition by any Government Authority of any material condition (other than a condition which has been imposed as a consequence of a violation by the Concessionaire of any Applicable Permit) in connection with the issuance, renewal or modification of any Applicable Permits after the date of this Agreement which renders the performance by the Concessionaire of any of the terms of this Agreement impossible or unviable; or
- (c) any Applicable Permit previously granted, ceasing to remain in full force and effect for reasons other than breach / violation by or the negligence of the Concessionaire or if granted for a limited period, being renewed on terms different from those previously stipulated.

Provided any (i) imposition of new taxes, duties, cess and the like and / or the increase in taxes, duties, cess and the like effected from time to time by any Government Authority, and / or (ii) imposition of standards and condition of operations, maintenance and safety arising out of a new or revised Environmental Law; and/or (iii) imposition of standards and terms of employment and working conditions of labourers and workmen; and / or (iv) any rules or regulations stipulated by TAMP or other regulatory authority having jurisdiction over the Project in respect of the standards of service shall not constitute a Change in Law.

13.2 The Concessionaire's Remedy

- (a) In the event of Change in Law the Concessionaire may propose to the Concessioning Authority modifications to the relevant terms of this Agreement which are reasonable and intended to mitigate the effect of the Change in Law. Thereupon, the Parties shall, in good faith, negotiate and agree upon suitable changes in the terms of this Agreement including extension of the Concession Period, so as to place the Concessionaire in substantially the same legal and financial position as it were prior to such Change in Law. Provided however, that if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance, the Change in Law shall be deemed to be a Political Event, whereupon the provisions with respect thereto shall apply.



- (b) In the alternative to the aforesaid, subject to the Concessionaire taking necessary measures to mitigate the impact or the likely impact of Change in Law on the Project, if as a direct consequence of a Change in Law, the Concessionaire is obliged to incur Additional Cost in any accounting year, any such Additional Cost above a sum of Rs.57.25 million may at the option of the Concessioneing Authority be borne by the Concessioneing Authority. It is clarified that Additional Cost upto Rs. 57.25 (Rupees fifty seven decimal two five only) million in any accounting year shall be borne by the Concessionaire;
- (c) Upon occurrence of a Change in Law, the Concessionaire shall notify the Concessioneing Authority, of the following:
- (i) the particulars, nature and the impact of Change in Law on the Project;
 - (ii) in sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of the Change in Law; and
 - (iii) the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the Additional Cost.
- (d) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to the preceding sub-article(c), the Concessioneing Authority and the Concessionaire shall hold discussions and take all such steps as may be necessary including determination/certification by an Expert, appointed by the Parties by mutual consent, of the Additional Cost and to determine the quantum of the Additional Cost to be incurred.
- (e) If it is determined that the only material impact of a Change in Law is Additional Cost and the Concessioneing Authority opts to compensate the same in accordance with the preceding sub-article (b), the Concessionaire shall not be entitled to any other remedy nor shall seek any alterations to the Agreement and the Concessioneing Authority shall, within 30 (thirty) Days from the date of determination of quantum of Additional Cost to be borne by the Concessioneing Authority in accordance with sub-article (b) above, compensate the Concessionaire in either of the following ways:
- (i) by lump-sum reimbursement of such Additional Cost to the Concessionaire;
 - (ii) reimbursement of the such Additional Cost to the Concessionaire, in not exceeding four half yearly installments, subject to payment of interest at SBI PLR + 2% (two percent) on the amount the payment of which is deferred.

Notwithstanding the aforesaid, if in terms of Good Industry Practice, the event constituting a Change in Law could be insured, the Concessionaire shall not be entitled to any remedy under this Article 13.2;

If as a result of Change in Law, the Concessionaire incurs a reduction in costs or other financial gain or benefit in connection with its development or operation of the Project, the aggregate financial effect of which exceeds Rs. 80.15 million (Rupees eighty decimal one five million only) in any Financial Year, the Concessionaire shall notify the Concessioneing Authority and pay to the Concessioneing Authority an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other financial gain or benefit as aforesaid. Without prejudice to the aforesaid, the Concessioneing Authority may, by notice in writing require the Concessionaire to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other gain or benefit.

The Concessionaire shall make payment of such compensation within sixty (60) Days of the said financial benefit. If the Concessionaire shall dispute the quantum of such compensation claim of the Concessioneing Authority, the same shall be finally settled in accordance with the dispute resolution mechanism contained in Article 19 herein.



ARTICLE 14

FORCE MAJEURE

14.1 Force Majeure Event

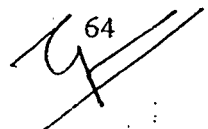
As used in this Agreement, Force Majeure Event means the occurrence of any of the Non-Political Events, the Political Events or the Other Events in India, set out in Articles 14.2, 14.3 and 14.4 respectively including the impact / consequence thereof which:

- (a) is beyond the control of the Party claiming to be affected thereby (the "Affected Party");
- (b) prevents the Affected Party from performing or discharging its obligations under this Agreement; and
- (c) the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence.

14.2 Non-Political Events

Any of the following events which prevent the Affected Party from performing any of its obligations for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute a Non-Political Event:

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Project Site and by reasons not attributable to the Concessionaire or the Contractor or any of the employees or agents of the Concessionaire or the Contractor);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees / representatives, or attributable to any act or omission of any of them), and not being an Other Event set forth in Article 14.4, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;
- (c) any failure or delay of a Contractor caused by any of the Non-Political Events, for which no offsetting compensation is payable to the Concessionaire or on behalf of the Contractor;
- (d) the discovery of geological conditions, toxic contamination or archeological remains on the Project Site that could not reasonably have been expected to be discovered through a site inspection; or



- (e) any event or circumstance of a nature analogous to any of the foregoing.

14.3 Political Events

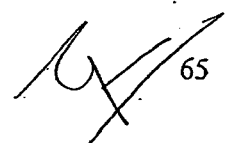
Any of the following events shall constitute Political Event:

- (a) Change in Law for which no relief is provided under the provisions of Article 13, resulting in Material Adverse Effect;
- (b) action of a Government Authority having Material Adverse Effect including but not limited to (i) acts of expropriation, compulsory acquisition or takeover by any Government Authority of the Project/Project Facilities and Services or any part thereof or of the Concessionaire's or the Contractor's rights under any of the Project Contracts, and (ii) any unlawful, unauthorized or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than the Concessionaire's or the Contractor's breach or failure in complying with the Project Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound;
- (c) early determination of this Agreement by the Concessioneing Authority for reasons of national emergency, national security or the public interest;
- (d) any failure or delay of a Contractor caused by any of the aforementioned Political Events, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor; or
- (e) any event or circumstance of a nature analogous to any of the foregoing.

14.4 Other Events

Any of the following events which prevents the Affected Party from performing any of its obligations under this Agreement for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute the Other Event:

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) industry wide or State wide strikes or industrial action;
- (c) any civil commotion, boycott or political agitation which prevents collection of Fee by the Concessionaire;

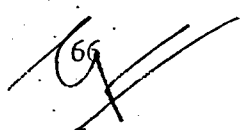


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- (d) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire; and any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire other than relating to proceedings (i) pursuant to failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) with respect to exercise of any of its rights under this Agreement by the Concessioneing Authority; or
- (e) any event or circumstance of a nature analogous to any of the foregoing.

14.5 Notice of Force Majeure Event

- (a) The Affected Party shall give written notice to the other Party in writing of the occurrence of any of the Force Majeure Event (the "Notice") as soon as the same arises or as soon as reasonably practicable and in any event within 7 (seven) Days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the adverse effect it has or is likely to have on the performance of its obligations under this Agreement.
- (b) The Notice shall inter-alia include full particulars of:
- (i) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof;
 - (ii) the duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party's ability to perform its obligations or any of them under this Agreement;
 - (iii) the measures which the Affected Party has taken or proposes to take, to alleviate the impact of the Force Majeure Event or to mitigate the damage; and
 - (iv) any other relevant information.
- (c) So long as the Affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Party with periodic fortnightly written reports containing the information called for by Article 14.5(b) and such other information as the other Party may reasonably request.



14.6 Period of Force Majeure

Period of Force Majeure shall mean the period from the time of occurrence specified in the Notice given by the Affected Party in respect of the Force Majeure Event until the earlier of:

- (a) expiry of the period during which the Affected Party is excused from performance of its obligations in accordance with Article 14.7; or
- (b) termination of this Agreement pursuant to Article 14.10 hereof.

14.7 Resumption of Performance

During the period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

14.8 Performance Excused

The Affected Party, to the extent rendered unable to perform its obligations or part thereof under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of the obligations. Provided that, the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Provided further, nothing contained herein shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

14.9 Costs, Revised Timetable

- (a) **Costs**
Each Party shall bear its costs, if any, incurred as a consequence of the Force Majeure Event.
- (b) **Extension of time/period**

The Affected Party shall be granted by the other Party, extension of time specified in this Agreement for the performance of any obligation by such period not exceeding the period during which the relative performance was affected by the Force Majeure Event. Such extension may include extension of the Concession Period by the Concessioneing Authority in appropriate cases if permissible under Applicable Law.



14.10 Termination Due to Force Majeure Event

If the period of Force Majeure continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 (one hundred and twenty) Days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 (one hundred and twenty) Days be entitled to terminate the Agreement in which event, the provisions of Articles 16 and 17 shall, to the extent expressly made applicable, apply.



ARTICLE 15
EVENTS OF DEFAULT

15.1 Events of Default

Event of Default means the Concessionaire Event of Default or the Concessioneing Authority Event of Default or both as the context may admit or require.

(a) The Concessionaire Event of Default

The Concessionaire Event of Default means any of the following events unless such an event has occurred as a consequence of the Concessioneing Authority Event of Default or a Force Majeure Event:

- (i) the Concessionaire's failure to perform or discharge any of its obligations in accordance with the provisions of this Agreement;
- (ii) construction at the Project Site is abandoned for a more than 90 (ninety) Days during the Construction Phase;
- (iii) a delay of more than 180 (one hundred and eighty) Days from any Milestone Date in achieving any of the performance obligations set forth for the relevant Milestone Date or the Date of Commercial Operations is delayed for more than 180 (one hundred and eighty) Days from the Scheduled Project Completion Date;
- (iv) Delay in payment of Royalty for 2 (two) consecutive Months or more than (5) (five) times in the aggregate during the Concession Period.
- (v) the Concessionaire's failure to perform or discharge any of its obligations under any other Project Contract, which has or is likely to affect the Project/the Project Facilities and Services, materially;
- (vi) A default under the Management Contract, which has or is likely to affect the Project/the Project Facilities and Services, materially;³⁸
- (vii) ³⁹the Concessionaire fails to achieve Minimum Guaranteed Cargo for a consecutive period of 3 (three) years. Provided, the Concessionaire shall not be deemed to be in default if such non achievement is due to a substantial change in economic policies including the policy regarding import/export of a particular commodity as a result of which the throughput could not be achieved;

- (viii) any representation made or warranties given by the Concessionaire under this Agreement is found to be false or misleading;
- (ix) the Concessionaire passing a resolution for voluntary winding up;
- (x) appointment of a provisional liquidator, administrator, trustee or receiver of the whole or substantially whole of the undertaking of the Concessionaire by a court of competent jurisdiction in proceedings for winding up or any other legal proceedings;
- (xi) occurrence of default under the Financing Documents pursuant to which the Lenders exercise their rights to substitute the Concessionaire in accordance with the provisions of the Substitution Agreement;
- (xii) levy of an execution or distraint on the Concessionaire's assets which has or is likely to have Material Adverse Effect and/or affect the Project/Project Facilities and Services, materially and such execution or distraint remaining in force for a period exceeding 90 (ninety) Days;
- (xiii) the Performance Guarantee is not maintained in terms of the provisions hereof;
- (xiv) the Concessionaire abandons or expresses its intention to revoke/terminate this Agreement without being entitled to do so as is expressly provided in the Agreement;
- (xv) a change in shareholding such that the beneficial interest of the Applicant/Consortium in the Concessionaire reduces below the limits set in Article 11.2 and/or Management Control of the Concessionaire has occurred in contravention of the provisions of Article 11 hereof;
- (xvi) amalgamation of the Concessionaire with any other company or reconstruction or transfer of the whole or part of the Concessionaire's undertaking in contravention with the provisions of Article 11 hereof; and
- (xvii) the Concessionaire engaging or knowingly allowing any of its employees, agents, Contractors or representatives to engage in any activity prohibited under this Agreement and/or by law or which constitutes a breach of the Agreement or breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.

³⁸ This would be case specific.

³⁹ Should be applicable only for single commodity bulk cargo terminals. This would be added only where Minimum Guaranteed Cargo is specified. The bracketed portion would be project specific.

(b) The Concessioneing Authority Event of Default

- (i) the Concessioneing Authority's failure to perform or discharge its obligations in accordance with the provisions of this Agreement unless such failure has occurred as a consequence of any Concessionaire Event of Default or a Force Majeure Event.
- (ii) any representation made or warranties given by the Concessioneing Authority under this Agreement is found to be false or misleading.
- (iii) appointment of a provisional liquidator, administrator or receiver of the whole or part of the Port's Assets in any legal proceedings initiated against the Concessioneing Authority (unless such proceedings are initiated as a consequence of any Concessionaire Event of Default).
- (iv) levy of an execution or restraint on the Port's Assets in any proceedings against the Concessioneing Authority (unless such proceedings are initiated as a consequence of any Concessionaire Event of Default) which has or is likely to have Material Adverse Effect and such execution or restraint remaining in force for a period exceeding 90 (ninety) Days.

15.2 Parties Rights

- (a) Upon the occurrence of the Concessionaire Event of Default, the Concessioneing Authority shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.
- (b) Upon the occurrence of the Concessioneing Authority Event of Default, the Concessionaire shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.

Provided that before proceeding to terminate this Agreement, the Party entitled to do so shall give due consideration and shall have due regard to the nature of the underlying Event of Default, its implication on the performance of the respective obligations of Parties under this Agreement and the circumstances in which the same has occurred.

15.3 Consultation Notice

Either Party exercising its right under Article 15.2, shall issue to the other Party a notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties and the Lenders to consider possible measures of curing or otherwise dealing with the underlying Event of Default ("Consultation Notice").


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15.4 Remedial Process

Following the issue of Consultation Notice by either Party, within a period not exceeding 90 (ninety) Days or such extended period as the Parties may agree ("Remedial Period") the Parties shall, in consultation with the Lenders, endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying Event of Default. Without prejudice to this, if the underlying Event is a Concessionaire Event of Default, the Concessioneing Authority shall in consultation with the Lenders endeavour to arrive at an agreement as to one or more of the following measures and / or such other measures as may be considered appropriate by them in the attendant circumstances:

- (a) the change of management or control/ownership of the Concessionaire;
- (b) the replacement of the Concessionaire by a new operator ("Selectee") proposed by the Lenders (in terms of the Substitution Agreement), and the specific terms and conditions of such replacement which shall include :
 - (i) the criteria for selection of the Selectee;
 - (ii) the transfer of rights and obligations of the Concessionaire surviving under this Agreement to the Selectee;
 - (iii) handing over / transfer of the Project Site, the Port's Assets and the Project Facilities and Services to the Selectee;
 - (iv) acceptance by the Selectee of the outstanding obligations of the Concessionaire under the Financing Documents and preserving Lenders' charge on the Concessionaire's assets;
 - (v) acceptance by the Selectee of any amounts due to the Concessioneing Authority from the Concessionaire under this Agreement; and
 - (vi) payment of consideration for the Concessionaire's assets comprised in the Project Facilities and Services and the manner of appropriation thereof.

15.5 Obligations during Remedial Period

During the Remedial Period, the Parties shall continue to perform their respective obligations under this Agreement which can be performed, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure / breach.

15.6 Revocation of Consultation Notice

If during the Remedial Period the underlying Event of Default is cured or waived or the Parties and the Lenders agree upon any of the measures set out in Article 15.4, the Consultation Notice shall be withdrawn in writing by the Party who has issued the same.



15.7 Termination due to Events of Default



If before the expiry of the Remedial Period, the underlying Event of Default is neither cured nor waived nor the Parties and the Lenders have agreed upon any of the measures in accordance with Article 15.4, the Party who has issued the Consultation Notice shall have the right to terminate this Agreement, in which event, the provisions of Article 16 and 17 shall, to the extent expressly made applicable, apply.

15.8 Concessioneing Authority's Rights of Step-in

Upon a Termination Notice being issued due to a Concessioneaire Event of Default, the Concessioneing Authority may, at its discretion:

- (a) re-enter upon and take possession and control of Project Site / Project Facilities and Services forthwith;
- (b) prohibit the Concessioneaire and any Person claiming through or under the Concessioneaire from entering upon / dealing with the Project Facilities and Services;
- (c) step in and succeed upon election by Concessioneing Authority without the necessity of any further action by the Concessioneaire, to the interests of the Concessioneaire under such of the Project Contracts as the Concessioneing Authority may in its discretion deem appropriate with effect from the date of communication of such election to the counter party to the relative Project Contracts.

Provided, that in such circumstances, the Concessioneing Authority shall assume the obligations of the Concessioneaire with respect to the Lenders during such Remedial Period out of the current revenues. Provided further, the Concessioneaire acknowledges that any payments made by the Concessioneing Authority during the Remedial Period shall be adjusted against compensation payable by the Concessioneing Authority to the Concessioneaire in terms of the provisions of this Agreement.



ARTICLE 16

TERMINATION OF THE CONCESSION/AGREEMENT

16.1 Termination Procedure

The Party entitled to terminate this Agreement either on account of a Force Majeure Event or on account of an Event of Default shall do so by issue of a notice in writing ("Termination Notice") to the other Party and simultaneously deliver a copy thereof to the Lenders. The Termination Notice shall be of not less than 90 (ninety) Days and not ordinarily be more than 180 (one hundred and eighty) Days, ("Termination Period") and at the expiry of the Termination Period, this Agreement shall stand terminated without any further notice.

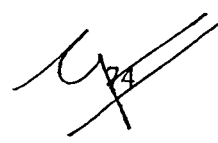
16.2 Obligations during Termination Period

During Termination Period, the Parties shall subject where applicable to the provisions of this Article 16, continue to perform such of their respective obligations under this Agreement which are capable of being performed with the object, as far as possible, of ensuring continued availability of the Project Facilities and Services to the users, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

16.3 Requisition

Except where the Termination Notice is issued prior to Financial Close being achieved by the Concessionaire, when the Concession has not come into effect the Concessionaire has no right hereunder and no compensation is payable by the Concessioneing Authority, upon issue or receipt as the case may be of Termination Notice, either as a consequence of a Force Majeure Event or as a consequence of an Event of Default, or otherwise 6 (six) months prior to the expiry of the Concession Period, the Concessioneing Authority shall by a notice in writing ("Requisition") call upon the Concessionaire to furnish the following information to enable the Concessioneing Authority to estimate the likely compensation payable by the Concessioneing Authority to the Concessionaire and/or to finalise the items of Concessionaire's assets comprised in the Project Facilities and Services to be handed over to/taken over by the Concessioneing Authority.

- (a) except in cases where no Financial Close has been achieved, the particulars of Debt Due supported by Lenders' certificate;
- (b) data or records including test certificates survey reports, inspection reports, statutory certificates issued for operation and establishment of the Project Facilities and Services regarding the operation and maintenance.
- (c) specifications regarding the Concessionaire's assets comprised in the Project Facilities and Services; and



- (d) any other information or records regarding Concessionaire, its business, the Project/Project Facilities and Services, assets and liabilities.

The Concessionaire shall within a period of 30 (thirty) Days of receipt of Requisition furnish the particulars called for by the Concessioneing Authority.

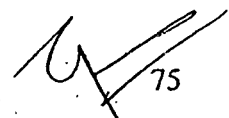
16.4 Condition Survey

- (a) The Concessionaire agrees that on the service of a Termination Notice or at least 6 (six) months prior to the expiry of the Concession Period, as the case may be, it shall conduct or cause to be conducted under the Concessioneing Authority's supervision, a condition survey of the Project Facilities and Services including the Project Site and/or the Port's Assets to ascertain the condition thereof, verifying compliance with the Concessionaire's obligations under this Agreement and to prepare an inventory of the assets comprised in the Project Facilities and Services. During this period, the designated key personnel of the Concessioneing Authority shall be associated with the operations of the Project Facilities and Services (except when the same is impossible due to a Force Majeure Event) in order to facilitate smooth take over of the same by the Concessioneing Authority on the Transfer Date.
- (b) If, as a result of the condition survey, the Concessioneing Authority shall observe/notice that the Project Site and/or the Port's Assets and/or the Project Facilities and Services or any part thereof have/has not been operated and maintained in accordance with the requirements therefor under this Agreement (normal wear and tear excepted) the Concessionaire shall, at its cost and expenses, take all necessary steps to put the same in good working conditions well before the Transfer Date.
- (c) In the event the Concessionaire fails to comply with the provisions of this Agreement, the Concessioneing Authority may itself cause the condition survey and inventory of Port's Assets and the Project Facilities and Services to be conducted. The Concessioneing Authority shall be compensated by the Concessionaire for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities and Services in good working condition.

16.5 Consequences of Termination

Without prejudice to any other consequences or requirements under this Agreement or under any law:


- (a) the Concessionaire shall transfer all the assets and rights upon expiry of the Concession Period by efflux of time or termination of the Agreement due to a Force Majeure Event or on account of an Event of Default in accordance with Article 18;



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- (b) the Concessioneing Authority shall be entitled to encash any subsisting bank guarantee(s) provided by the Concessionaire against any amounts owing to the Concessioneing Authority by the Concessionaire.

Notwithstanding anything contained in this Agreement, except for ensuring the deposit of the compensation payable to the Concessionaire in accordance with Article 17 in the Escrow Account, the Concessioneing Authority shall not, as a consequence of termination or otherwise, have any obligation whatsoever to any third party including but not limited to obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handback of the Project Site / Port Assets / Project Facilities & Services by the Concessionaire to the Concessioneing Authority shall be free from any such obligation.



ARTICLE 17
COMPENSATION

17.1 Compensation

(a) Termination due to Force Majeure Event

- (i) If the termination is due to a Non Political Event, compensation payable to the Concessionaire shall be the lower of the Book Value or the Debt Due LESS any amount due to the Concessioneing Authority by the Concessionaire under this Agreement LESS all insurance claims received or admitted.
- (ii) If the termination is due to a Other Event compensation payable to the Concessionaire shall be the higher of the Book Value or the Debt Due LESS any amount due to the Concessioneing Authority by the Concessionaire under this Agreement LESS all insurance claims received or admitted. Provided, the Book Value or the Debt Due, as the case may be shall not exceed the Actual Project Cost.
- (iii) If termination is due to a Political Event, compensation payable to the Concessionaire shall be the same as that stipulated for termination due to a Concessioneing Authority Event of Default under Article 17.1 (c).

Provided, no compensation shall be payable to the Concessionaire if the Concessionaire fails to maintain Insurance Cover as contemplated under Article 12 of this Agreement.

(b) Termination due to Concessionaire Event of Default

If the termination is after the Date of Commercial Operation, due to a Concessionaire Event of Default, the compensation payable by the Concessioneing Authority to the Concessionaire shall be the lowest of:

- (i) the Book Value;
- (ii) 90% (ninety percent) of Debt Due;
- (iii) the Actual Project Cost;

Provided, no compensation shall be payable to the Concessionaire if the Concessionaire fails to maintain Insurance Cover as contemplated under Article 12 of this Agreement.



(c) Termination due to Concessioneing Authority Event of Default

If the termination is due to a Concessioneing Authority Event of Default, the compensation payable by the Concessioneing Authority shall be equal to the aggregate of (i) Debt Due plus (ii) 150% (one hundred and fifty percent) Equity.

17.2 No Compensation on Expiry of Concession Period

In the event of expiry of Concession by efflux of time (the Concession having run its full course), the Concessionaire shall hand over/ transfer peaceful possession of the Project Site, Port's Assets and the Project Facilities and Services free of cost and Encumbrances.

17.3 Transfer Fee and Charges

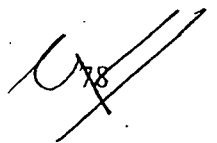
Transfer costs, stamp duties, notary fees and taxes, if applicable, for the transfer of the Project Facilities and Services consequent to the expiry or termination of this Agreement shall be borne by:

- (a) the Concessionaire in the event of expiry of Concession Period or termination due to a Concessionaire Event of Default;
- (b) the Concessioneing Authority in the event of termination due to a Concessioneing Authority Event of Default or Political Event; and
- (c) by both parties equally in case of termination due to Change in Law or Non Political Event or Other Event.

17.4 Payment of Compensation to Lenders

The Concessionaire hereby irrevocably authorises the Concessioneing Authority to pay to the Lenders or at their instruction to any designated bank account in India the compensation payable to the Concessionaire. The Concessionaire confirms that upon such payment being made, the Concessioneing Authority shall stand duly discharged of its obligations regarding payment of compensation under this Agreement and the charge created by the Concessionaire in favour of the Lenders on any of its assets taken over by the Concessioneing Authority shall stand satisfied and all such assets shall on and from the Transfer Date be free from such charge. The Concessionaire further confirms that payment of compensation by Concessioneing Authority in accordance with this Article 17.4 shall be a valid discharge to the Concessioneing Authority in respect of Concessioneing Authority's obligation regarding payment of compensation to the Concessionaire under this Agreement.

Provided notwithstanding anything inconsistent contained in this Agreement, the Concessionaire / the Lenders as the case may be shall be entitled to remove at its / their cost all such moveables which are not taken over by the Concessioneing Authority and to deal with the same in accordance with their respective rights under law.



Provided further, if there are no amounts outstanding under the Financing Documents and a certificate to that effect issued by the Lenders is furnished by the Concessionaire to the Concessioneing Authority, the compensation shall be paid by the Concessioneing Authority to the Concessionaire directly.

17.5 Delayed Payment of Compensation

If for any reasons, other than those attributable to the Concessionaire, the Concessioneing Authority fails to pay the compensation on the Transfer Date, the Concessioneing Authority shall be liable to pay interest@ SBI PLR plus 2% (two percent) per annum thereon from the Transfer Date till payment thereof. Provided, nothing contained in this Article shall be deemed to authorise any delay in payment of compensation in accordance with this Agreement.

17.6 Delayed Transfer of Assets

If for any reasons other than those attributable to the Concessioneing Authority the Concessionaire fails to transfer assets, rights and contracts on the Transfer Date in accordance with Article 16.5 read with Article 18, there shall be no suspension of the operation and maintenance of the Project Facilities and Services and the Concessionaire shall, as a trustee of the Concessioneing Authority, (a) continue to operate and maintain the Project Facilities and Services or such of them, as directed by Concessioneing Authority until completion of the relative transfer formalities and (b) account for and pay to the Concessioneing Authority the Gross Revenue minus operating costs and statutory dues, from such operations. In the event of failure to do so, the Concessionaire shall be liable to pay to the Concessioneing Authority, for every Day of delay, liquidated damages computed at the rate of the average daily profits earned during the 3 (three) years immediately preceding the Transfer Date. Parties confirm that this is a true and correct estimate of damages and not in the nature of a penalty. Provided nothing contained in this Article 17.6 shall be deemed or construed to authorise delay in completion of formalities of transfer of assets, rights and contracts by the Concessionaire to the Concessioneing Authority in accordance with the requirements thereof under this Agreement.

In case the transfer of assets by the Concessionaire to the Concessioneing Authority is delayed for reasons attributable to the Concessioneing Authority, the Concessionaire shall nonetheless continue to operate the Project Facilities and Services but as agent of the Concessioneing Authority. Provided however, the Concessionaire shall be liable to pay Royalty in accordance with Article 9.2.

17.7 Remedies Cumulative

The exercise of right by either Party to terminate this Agreement, as provided herein, shall not preclude, such Party from availing any other rights or remedies that may be available to it under law. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.



ARTICLE 18

TRANSFER ON EXPIRY OF THE CONCESSION PERIOD

18.1 General Scope of Transfer/Payment

The Parties shall perform/discharge their respective obligations to be performed or discharged under the provisions of this Agreement on the Transfer Date in entirety. Without prejudice to the generality of this provision and the provisions of Article 16, the transactions to be consummated and the formalities to be completed by the Parties on the Transfer Date shall be as set out in Articles 18.2 and 18.3.

18.2 Concessionaire's Obligations

The Concessionaire shall;

- (a) hand over peaceful possession of the Project Site, Port's Assets, the Project and the Project Facilities and Services free of Encumbrance;
- (b) transfer all its rights, titles and interests in the assets comprised in the Project Facilities and Services which are required to be transferred to the Concessions Authority in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard;
- (c) hand over to the Concessions Authority all documents including as built drawings, manuals and records relating to operation and maintenance of the Project Facilities and Services;
- (d) transfer technology and up-to-date know-how relating to operation and maintenance of the Port's Assets and / or the Project Facilities and Services;
- (e) transfer or cause to be transferred to the Concessions Authority any Project Contracts which are (i) valid and subsisting; (ii) capable of being transferred to the Concessions Authority; and (iii) those the Concessions Authority has chosen to take over, and cancel or cause to be cancelled such Project Contracts not transferred to the Concessions Authority. For this purpose, the Concessionaire shall ensure that all Project Contracts are assignable in favor of the Concessions Authority without any further action on part of the respective counterparties. The Concessionaire shall entirely at its cost, terminate all such Project Contracts which are not transferred/assigned and / or are not required to be transferred / assigned to the Concessions Authority;
- (f) at its cost, transfer to the Concessions Authority all such Applicable Permits which the Concessions Authority may require and which can be legally transferred. Provided if the termination is on account of Concessions Authority Event of Default the cost of such transfer shall be borne/ reimbursed by the Concessions Authority;

- (g) at its cost, remove within 90 (ninety) days from expiry of the Concession Period, from the Project Site / Port's Assets, any moveable assets that are not taken over by or not to be transferred to the Concessioneing Authority in terms of the provisions of this Agreement.



18.3 Concessioneing Authority's Obligations

Except in the event of expiry of the Concession by efflux of time, the Concessioneing Authority shall pay compensation payable to the Concessionaire in accordance with Article 17.1 of this Agreement, to the Lenders, or deposit the same in the Escrow Account or on the written instructions of the Lenders to any designated bank account in India, or to the Concessionaire, as the case may be. The Concessionaire confirms that upon such payment being made, the Concessioneing Authority shall stand duly discharged of its obligations regarding payment of compensation under this Agreement and the charge created by the Concessionaire in favour of the Lenders on any of the assets shall stand satisfied and all such assets shall on and from the Transfer Date be free from such charge.

The Concessionaire further confirms that payment of compensation by Concessioneing Authority in accordance with this Article 18.3 shall be a valid discharge to the Concessioneing Authority in respect of Concessioneing Authority's obligation regarding payment of compensation to the Concessionaire under this Agreement.

18.4 Risk

Until transfer in accordance with this Article 18, the Port's Assets and the Project Facilities and Services shall remain at the sole risk of the Concessionaire except for any loss or damage caused to or suffered by the Concessionaire due to any act or omission or negligence on the part of the Concessioneing Authority under this Agreement.



ARTICLE 19
DISPUTE RESOLUTION

19.1 Amicable Settlement

If any dispute or difference or claims of any kind arises between the Concessioning Authority and the Concessionaire in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any Party under this Agreement, whether before or after the termination of this Agreement, then the Parties shall meet together promptly, at the request of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

19.2 Assistance of Expert

The Parties may, in appropriate cases agree to refer the matter to an Expert appointed by them with mutual consent. The cost of obtaining the service of the Expert shall be shared equally.

19.3 Arbitration

(a) Arbitrators

Failing amicable settlement and/or settlement with the assistance of Expert appointed by the Parties by mutual consent, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. Unless the Parties mutually agree otherwise, within 30 (thirty) Days of invocation of the arbitration as mentioned below, the rules of arbitration prescribed by the International Centre for Alternative Dispute Resolution, New Delhi shall apply to the arbitration. The arbitration shall be by a panel of three Arbitrators, one to be appointed by each Party and the third, who shall act

as presiding arbitrator, to be appointed by the two arbitrators appointed by the Parties. The arbitration shall be invoked by one party issuing to the other a notice in writing invoking the arbitration and appointing an Arbitrator. Upon receipt of the notice, the other Party shall appoint the second Arbitrator. The two Arbitrators so appointed shall appoint the third Arbitrator who shall act as the 'Presiding Arbitrator'. If the other Party fails to appoint a second Arbitrator within 30 (thirty) Days from the receipt of the request to do so, then the Arbitrator so appointed by the first party shall adjudicate the disputes as 'Sole Arbitrator'.



(b) Place of Arbitration

The place of arbitration shall be the headquarters of the Concessioneing Authority in India.

(c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Procedure

The procedure to be followed within the arbitration, including appointment of arbitrator / arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996.

(e) Enforcement of Award

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

(f) Fees and Expenses

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid equally by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the successful party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by the Party.

(g) Performance during Arbitration

Pending the submission of and/or decision on a dispute, difference or claim or until the arbitral award is published, the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

ARTICLE 20

REPRESENTATIONS AND WARRANTIES

20.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Concessioneing Authority that:

- (a) it is duly organised, validly existing and in good standing under the laws of India and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (d) this Agreement constitutes the legal, valid and binding obligation of the Concessionaire, enforceable against it in accordance with the terms hereof;
- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement;
- (f) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum of association and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Authority which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;


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- (i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (j) all its rights and interests in the Project/Project Facilities and Services shall pass to and vest in the Concessioneing Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Concessioneing Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;
- (k) no representation or warranty by it contained herein or in any other document furnished by it to the Concessioneing Authority including the Bid or to any Government Authority in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (l) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Concessioneing Authority in connection therewith;
- (m) agrees that the execution, delivery, and performance by it of this Agreement and all other agreements, contracts, documents and writings relating to this Agreement constitute private and commercial acts and not public or governmental acts; and
- (n) consents generally in respect of the enforcement of any judgement against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings.

20.2 Representations and Warranties of the Concessioneing Authority

The Concessioneing Authority represents and warrants to the Concessionaire that:

- (a) it is duly organised, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;



- (d) this Agreement constitutes the legal, valid and binding obligation of the Concessioning Authority, enforceable against it in accordance with the terms hereof; and
- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement.

20.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.



ARTICLE 21

MISCELLANEOUS PROVISIONS

21.1 Datum

The datum to which all levels shall be referred for the purpose of the Project is the Chart Datum (0.000) which is 0.80 m below mean sea level.

21.2 Survival of Obligations

Any cause of action which may have occurred in favour of either Party or any right which is vested in either Party under any of the provisions of this Agreement during the Concession Period as the case may be as a result of any act, omission, deed, matter or thing done or omitted to be done by either Party before the expiry of the Concession Period by efflux of time or otherwise in accordance with the provisions of this Agreement shall survive the expiry of the Concession Period/ termination of this Agreement.

21.3 Articles to survive Termination

The provisions of Articles 16 to 21 shall, to the fullest extent necessary to give effect thereto, survive the Concession Period/the termination of this Agreement and the obligations of Parties to be performed/discharged following the termination/early determination of this Agreement shall accordingly be performed / discharged by the Parties.

21.4 Joint Responsibility



In the event that any damage is caused partly due to the negligence or default or omission on the part of the Concessioneing Authority and partly due to the negligence or default or omission on the part of the Concessionaire, each Party shall be liable to the other Party only in the proportion to its respective degree of negligence or default or omission, as the case may be.

21.5 Several Obligations

Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency or joint venture among the Parties and Parties shall be liable to perform their respective duties and discharge their respective liabilities or obligations in accordance with the provisions of this Agreement.

21.6 Severability

If for any reason whatsoever any provision or any part(s) of this Agreement is held or shall be declared to be void or illegal or invalid under present or future laws or regulations effective and applicable during the Concession Period, by any competent arbitral tribunal or court, and if such provisions shall be fully separable and this Concession shall be constructed as if such provision or such part(s) of this Agreement never comprised part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such void or illegal or invalid provision or by its severance from this Agreement.



21.7 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term or related or breach of any term of this Agreement shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

The Concessioneing Authority:

CHAIRMAN

VISAKHAPATNAM PORT
VISAKHAPATNAM - 530 035

Fax No: _____

Email: _____

The Concessionaire:

The MANAGING DIRECTOR

_____ Ltd

Fax No. _____

Email: _____

or such other address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

21.8 Waiver

No waiver of any term or condition or of the breach thereof by any Party shall be valid unless expressed in writing and signed by such Party and communicated by such Party to the other Party in accordance with the provisions of Article 21.7 of this Agreement. A waiver by any Party of any term or condition or breach thereof in a given case shall not be deemed or construed as a general waiver of such term or condition or the breach in the future or waiver of any other terms or conditions or breach of this Agreement.

[Handwritten signature]

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21.9 Amendments, Modifications or Alterations.

No amendments, modifications or alterations of or any additions to the terms and conditions of this Agreement shall be valid unless the same be in writing and agreed to by the Parties.

21.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Republic of India and courts having territorial jurisdiction over the Project shall have jurisdiction over all matters relating to or arising out of this Agreement.

21.11 Entire Agreement

This Agreement and the Appendices together constitute a complete and exclusive statement of the terms of the agreement between the Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement unless specifically retained in this Agreement and the Appendices, by reference or otherwise, are abrogated and withdrawn.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement on the dates indicated next to their signatures below:

Common Seal of the Concessioneing Authority is affixed pursuant to its resolution dated _____ of the Board in the presence of Mr. _____

_____ who has signed this

Agreement in token thereof.

Signed and Delivered by the Concessionaire by the hand of its authorized representative Mr. _____ pursuant to Resolution dated _____ of its Board of Directors.



APPENDIX 1

PROJECT SITE

1.0 SITE INFORMATION

1.1 GENERAL

The Concessionaire should ascertain and satisfy itself / themselves about the details and the data furnished on meteorological, geological, sub-soil and other conditions. If any error or deficiency in the information supplied surfaces at any time during the currency of the Concession Period, no claim on this account will be entertained by the Concessioneing Authority.

1.2 THE SITE

The Visakhapatnam port is located in the city of Visakhapatnam, Visakhapatnam District, State of Andhra Pradesh on the East Cost of India and lies on Latitude 17°-41'N and Longitude 83°-18' E. The WQ-6 berth is proposed to be constructed by extending Northern arm in the Inner Harbour of the Concessioneing Authority in continuation to the existing WQ-5 berth as shown in drawing No. VPT/01 / 06

1.3 AVAILABILITY OF LAND

The Land for establishment of the identified facilities shall be provided by the Concessioneing Authority out of Visakhapatnam Port Trust land on prevailing Schedule of Rates as applicable from time to time. It is clarified that the costs of diversion of roads, telephone lines, power, water and any other lines, drains etc. passing through the land shall be borne by the Concessionaire at his own cost.

1.4 METEOROLOGICAL DATA

WIND :

The predominant direction of wind is south - west and North-east for the most of the time and wind speed does not exceed 20 KMPH for 90% of the time. The maximum wind speed recorded is 110 KMPH.

SEA WATER TEMPERATRUE & SALINITY :

The sea water temperature at Visakhapatnam Coast varies from a mean of about 25° C in January to 29° C in October. The salinity varies from a monthly mean of about 24.4% in November to a monthly mean of 34% in April.

1.5 SUB-SOIL CONDITIONS

As per soil investigations carried out in the recent past in the project site, the expected soil strata is soft clay for a depth of about 18 m followed by stiff clay /sand with clay and pebbles for a depth of about 4 m overlying hard strata. A copy of the same pertinent to the Project Site will be made available to the Concessionaire upon request. In the event that the Concessionaire desires to carry out any soil explorations, permission shall be granted by Concessioneing Authority., the soil exploration shall be arranged by the Concessionaire at his cost without causing any inconvenience to the works / operations of Authority / other agencies working in the area. The detailed designs to

be undertaken by the Concessionaire shall be based on proper soil exploration conducted at the Site before hand and no claim on this account will be tenable.

1.6 DATUM

The datum to which all levels shall be referred for the purpose of the works is the Chart Datum, which is 0.80 Meters below MSL.

1.7 CLIMATE

The annual mean maximum temperature is 30°C and the annual mean minimum temperature is 24.3°C. The highest temperature is recorded in May and June and the lowest in December and January. The highest temperature recorded was 38°C in May and the lowest temperature recorded was 24.3° in January for the year 2007.

The annual mean value of daily relative humidity recorded varies from 72% to 76% . The highest recorded value is 81% and lowest recorded value is 64%.

1.8 WAVES

The deep sea wave conditions are in agreement with the wind directions in this area. The predominant direction of waves during the period April – September is South – West whereas during the period November – February the predominant direction is North-east. The months of March and October are transition periods with no definite predominant direction for the wave approach. Waves of over 1.5 M in height may be expected out side the outer harbour for approximately 22% of the time and wave periods of over 7 seconds may be expected approximately 14% of the time.

1.9 TIDES

	<u>Highest w.r.t. datum</u>
Highest high water recorded (Nov. 2007)	- 2.06 M
Mean high water level spring	- 2.06 M
Mean high water level neap	- 1.50 M
Mean sea level	- 0.80 M
Mean low water level spring	- -0.16 M
Mean low water level neap	- +0.50 M
Chart datum (CD)	- 0.00 M
Lowest low water recorded (March 2007)	- (-)0.39 M

Note: During the 'tsunami' occurred in December 2004 the max. & min. levels of sea water have varied between a max. of +3.0 m to a min. of -1.0 m.

1.10 CURRENTS:

Currents in the Bay of Bengal are seasonal and are mainly due to south-West and North-East monsoons. From February to June offshore currents flow toward the North-East and from August to December towards South-west at velocities ranging from 0.5 to 1.0 Knot in the Outer Harbour.

1.11 VISIBILITY:

Visibility is good throughout the year as fog is in-frequent at sea in all seasons. Reduction in visibility is mostly due to heavy rainfall during the South-West monsoon. The highest monthly average duration recorded fog is 0.1 day in some months from December to May.

..12 CYCLONES:

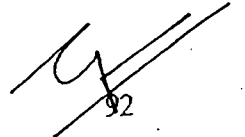
The average number of cyclones occurring at Visakhapatnam is 4 to 5 per year. Cyclone Storms and depressions occur with great frequency in August, October and November.

2.0 EXISTING BERTHS:

2.1 The schematic details of the existing berths and approaches are shown in Drg No.VH/04/06 enclosed. The Inner Harbour has 18 Nos. of berths and the Outer Harbour 6 Nos. of berths. There are proposals to construct additional berths in the Inner Harbour and Outer Harbour.

3.0 SOIL INVESTIGATION

The concessionaire shall carryout the soil investigations along the length of the Quay / obtaining data as per the provisions contained in relevant Bureau of Indian Standards with soil borings at 50 meters interval so as to adhere to the design requirement.


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APPENDIX 2
PORT'S ASSETS

A water front of 255m and an area of about 12.20 acres(approx.) of land at North of VPT's fly over bridge for development as stack yard for storage of cargo and an area of 2.47 acres (approx.) as back up area to the berth is proposed to be provided to the Concessionaire. The land proposed to be provided is shown in the Drg. No.VPT/1/06 and Drg. No.VPT/3/06 enclosed.. The land lease rentals shall be as per Schedule of Rates as applicable from time to time and shall be payable by the Concessionaire to Concessioneing Authority for this land.

NOTE: There may marginal adjustments in the area proposed to be provided to the Concessioraire depending on the actual site conditions.



APPENDIX 3

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the ----- day of -----

----- (Month) --- (Year) at ----- AMONGST,
THE VISAKHAPATNAM PORT TRUST, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at VISAKHAPATNAM - 530 035, ANDHRA PRADESH, INDIA (hereinafter referred to as "the Concessioneing Authority") which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns;

AND

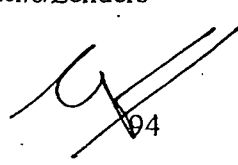
M/s. XXXX Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at ----- hereinafter referred to as "the Concessionaire" (which expression shall unless repugnant to the context or meaning thereof include its successors and assigns),

AND

YYYY (Financial Institution/ Bank) having its Registered Office/Head Office at -----
----- hereinafter referred to as "the Lender". OR
ZZZZ (Financial Institution/Bank) having its Registered Office/Head Office at -----
----- acting for and on behalf of the Lenders listed in Schedule A hereto (hereinafter referred as "the Lender's Representative").

WHEREAS,

- a) The Concessioneing Authority for implementing a Project envisaging planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo like C.P.Coke, LAM Coke, steel, granite blocks at WQ 6 berth in the northern arm of inner harbour of Visakhapatnam port by private sector participation (hereinafter referred to as "the Project"), has by the Concession Agreement dated ----- entered into between the Concessioneing Authority and the Concessionaire (hereinafter referred to as "the Concession Agreement") has granted to the Concessionaire the Concession to implement the Project in terms of the provisions set out thereunder;
- b) With a view to facilitate financing of the Project by the Concessionaire, the Concessioneing Authority and the Concessionaire have agreed to enter into Substitution Agreement being these presents with the Lender/s/Lenders' Representative.



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NOW, THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereafter respectively assigned to them.

"Agreement" means this agreement and includes any amendment or modification made to this agreement in accordance with the provisions hereof.

"Financial Assistance" means the financial assistance set forth in Schedule A hereto, agreed to be provided by the Lender(s) to the Concessionaire for financing the Project.

"Financial Default" means occurrence of a material breach of the terms and conditions of the Financing Documents or a continuous default in servicing debt thereunder by the Concessionaire for a minimum period of 3 (three) months.

"Lender(s)" means the financial institutions/banks whose name(s) and addresses are set out in Schedule A hereto and shall include the financial institutions/banks who may replace the same by way of a refinance/subrogation, as may be notified by the Lenders' Representative to the Concessionaire, from time to time.

"Residual Concession Period" means the period which shall be the remainder of the Concession Period computed from the date of issuance of Termination Notice in terms of Article 16.1 of the Concession Agreement.

"Selectee" means a Person proposed by the Lender/Lender's Representative pursuant to this Agreement and approved by the Concessioneing Authority for substituting the Concessionaire for the residual Concession Period, in accordance with the provisions of this Agreement.

"Suspension Period" means the Termination Period as defined in Article 16 of the Concession Agreement at the end of which all formalities connected with substitution of the Concessionaire by the Selectee including handing over of Project Site / Project Facilities and Services, in accordance with this Agreement are completed and the substitution has become effective.

- 1.2 Capitalized terms used in this Agreement but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

ARTICLE 2

ASSIGNMENT

2.1 Assignment of rights and title

The Concessionaire hereby agrees to assign its rights, title and interest in the Concession to, and in favour of, the Lenders pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing by the Lenders under the Financing Documents.

ARTICLE 3

SUBSTITUTION OF THE CONCESSIONAIRE

3.1 Rights of substitution

3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders shall be entitled to substitute the Concessionaire by a Selectee under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.1.2 The Concessioneing Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Selectee selected by the Lenders in accordance with this Agreement (For the avoidance of doubt, the Lenders shall not be entitled to operate and maintain the Project/Project Facilities and Services).

3.2 Substitution upon occurrence of Financial Default

3.2.1 Upon occurrence of a Financial Default, the Lenders/Lenders' Representative may issue a notice to the Concessionaire (the "Notice of Financial Default") along with particulars thereof, and send a copy to the Concessioneing Authority for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders/Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Documents, substitute the Concessionaire by a Selectee in accordance with the provisions of this Agreement.

3.2.3 At any time after the Lenders/Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Concessioneing Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project/Project Facilities and Services, and upon receipt of such notice, the Concessioneing Authority shall suspend the rights of the Concessionaire. Provided, such suspension shall be revoked upon substitution of the Concessionaire by a Selectee, and in the event such substitution is not completed within 180 (one hundred and eighty) Days from the date of such suspension, the Concessioneing Authority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that upon written request from the Lenders / Lenders' Representative and the Concessionaire, the Concessioneing Authority may extend the aforesaid period of 180 (one hundred and eighty) Days by a period not exceeding 90 (ninety) Days.

3.3 Substitution upon occurrence of Concessionaire Default

3.3.1 Upon occurrence of a Concessionaire Default, the Concessioneing Authority shall by a notice inform the Lenders / Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) Days time to the Lenders / Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Selectee.

3.3.2 In the event that the Lenders/Lenders' Representative makes a representation to the Concessioneing Authority within the period of 15 (fifteen) Days specified in Clause 3.3.1, stating that it intends to substitute the Concessionaire by a Selectee, the Lenders/Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Selectee in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) Days from the date of such representation, and the Concessioneing Authority shall either withhold termination and / or suspend the rights of the Concessionaire for the aforesaid period of 180 (one hundred and eighty) Days; provided that upon written request from the Lenders / Lenders' Representative and the Concessionaire, the Concessioneing Authority shall extend the aforesaid period of 180 (one hundred and eighty) Days by a period not exceeding 90 (ninety) Days.

3.4 Procedure for substitution

3.4.1 The Concessioneing Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Concessioneing Authority under Clause 3.3.2, as the case may be, the Lenders/Lenders' Representative may, without prejudice to any of the other rights or remedies of the Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders from potential Selectees for substituting the Concessionaire and taking on the rights and obligations under the Concession Agreement.

3.4.2 3.4.2 To be eligible for substitution in place of the Concessionaire, the Selectee shall be required to fulfil the eligibility criteria that were laid down by the Concessioneing Authority for shortlisting the bidders for

award of the Concession; provided that the Lenders/Lenders' Representative may represent to the Concessioneing Authority that all or any of such criteria may be waived in the interest of the Project, and if the Concessioneing Authority determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.

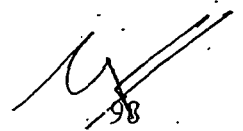
3.4.3 Upon selection of a Selectee, the Lenders/Lenders' Representative shall request the Concessioneing Authority to:

- (a) accede to transfer to the Selectee the rights and obligations of the Concessionaire under the Concession Agreement; and
- (b) novate the Concession Agreement to the Selectee such that the Selectee replaces the Concessionaire and becomes entitled / obligated to all the rights and obligations of the Concessionaire, for the residual Concession Period.

3.4.4 If the Concessioneing Authority has any objection to the transfer of Concession in favour of the Selectee in accordance with this Agreement, it shall within 7 (seven) Days from the date of proposal made by the Lenders / Lenders' Representative, give a reasoned order after hearing the Lenders / Lenders' Representative. If no such objection is raised by the Concessioneing Authority, the Selectee shall be deemed to have been accepted. The Concessioneing Authority thereupon shall novate the Concession Agreement within 7 (seven) Days of its acceptance / deemed acceptance of the Selectee; provided that in the event of such objection by the Concessioneing Authority, the Lenders' Representative may propose another Selectee whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Selectee in place of the Concessionaire.

3.5 Selection to be binding

The decision of the Lenders / Lenders' Representative and the Concessioneing Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Lenders or the Concessioneing Authority taken pursuant to this Agreement including the transfer / novation of the Concession Agreement in favour of the Selectee. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets comprised in the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders / Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Concessioneing Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Concessioneing Authority or the Lenders / Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Lenders / Lenders' Representative.


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ARTICLE 4

TRANSACTION DOCUMENTS

4.1 Substitution of Selectee in Transaction Documents

The Concessionaire shall ensure and procure that each Transaction Documents contains provisions that entitle the Selectee to step into such Transaction Documents, in its discretion, in place and substitution of the Concessionaire in the event of such Selectee assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

ARTICLE 5

TERMINATION OF CONCESSION AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders/Lenders' Representative may by a notice in writing require the Concessioneing Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Concessioneing Authority shall terminate the Concession in accordance with the Concession Agreement.

5.2 Termination when no Selectee is selected

In the event that no Selectee acceptable to the Concessioneing Authority is selected and recommended by the Lenders / Lenders' Representative within the period of 180 (one hundred and eighty) Days or any extension thereof as set forth in Clause 3.3.2, the Concessioneing Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

The Concessioneing Authority and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders are entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon termination of the Concession Agreement.

ARTICLE 6

DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

6.1.1 This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

- (a) Termination of the Agreement; or

- (b) no sum remains to be advanced, or is outstanding to the Lenders, under the Financing Documents.

ARTICLE 7

INDEMNITY

7.1 General indemnity

7.1.1 The Concessionaire will indemnify, defend and hold the Concessioneing Authority and the Lenders/Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

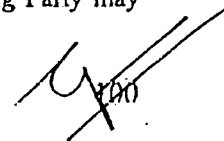
7.1.2 The Concessioneing Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Concessioneing Authority to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of its lawful functions by the Concessioneing Authority.

7.1.3 The Lenders / Lenders' Representative will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders/Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders/Lenders' Representative.

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) Days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same.

The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.



ARTICLE 8

GENERAL

8.1 General

- (i) The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.
- (ii) Notices under this Agreement shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by registered post acknowledgement due and delivered to the other parties.
- (iii) The expressions "Concessioneing Authority", the "Concessionaire", the "Lender" and the "Lenders' Representative", "Selectee" herein used shall unless there be anything repugnant to the subject or context include the respective successors and assigns.
- (iv) This Agreement shall not be affected by reorganisation of any Lender, the Concessionaire or Concessioneing Authority, "Selectee" and the successor in interest of the Lender or Concessioneing Authority shall have the benefit of this Agreement.
- (v) Failing amicable settlement and/or settlement with the assistance of Expert, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. The arbitration shall be by a panel of three Arbitrators, one each to be appointed by the Concessioneing Authority and the Lenders/Lender's Representative and the third to be appointed by the two arbitrators. If any Party entitled to do so, fails to appoint a second Arbitrator within 30 (thirty) Days of from the receipt of the request for such appointment, then the single Arbitrator appointed in accordance with this provision shall adjudicate the disputes as Sole Arbitrator.
- (vi) This Agreement and rights and obligations of the Parties hereunder shall remain in full force and effect pending the Award in any arbitration proceeding hereunder. The courts having territorial jurisdiction over the Project alone shall have jurisdiction over all matters arising out of or relating to the arbitration agreement contained herein or proceedings arising out of or relating to the arbitration proceedings thereunder.
- (vii) The consultation, recommendation or approval of the Lenders' Representative under this Agreement shall always be deemed as consultation, recommendation or approval of every concerned Lender and each such Lender shall be bound by the same.

- (viii) This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- (ix) The Concessionaire agrees and acknowledges that it shall not be necessary for the Lender(s) or the Lenders' Representative to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- (x) No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorized representatives of all the Parties hereto.
- (xi) All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid, irrespective of the Lenders making such payment for the time being, shall be borne by and be to the account of the Concessionaire.
- (xii) The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. The terms of this Agreement shall prevail in the event of any inconsistency with the Concession Agreement.

SCHEDULE A

PARTICULARS OF FINANCIAL ASSISTANCE

Name and Address of the Lender	Nature and Amount of Financing Assistance

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET THEIR HANDS
HEREUNTO ON THE DAY, MONTH AND YEAR HEREINABOVE MENTIONED.

SIGNED AND DELIVERED ON BEHALF OF

_____ LIMITED BY : _____

Name : Title :

SIGNED AND DELIVERED ON BEHALF OF

BY : _____

Name : Title :

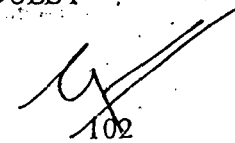
SIGNED AND DELIVERED ON BEHALF OF

_____ ON BEHALF OF THE LENDERS SET FORTH IN SCHEDULE I

BY : _____

Name :




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APPENDIX 4

PROJECT REQUIREMENTS

The following facilities and services for handling LAM Coke, PET Coke, Steel and Granite Blocks shall be provided by the Concessionaire in the Project Assets provided by the Concessioning Authority.

PROJECT FACILITIES AND SERVICES:

Berth:

- Plan, design and construct 255m length of berth (including dismantling the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of 14m draft vessels.
- Carry out dredging in front of the berth in phases i.e. (-) 12.10m initially, (-) 13.50 m and (-) 16.10 m CD ultimate from the present ground level/soundings.
- Develop back up area, water supply, area illumination, fire fighting and road facilities required including development of the land at the berth as well at the stack yard.

Equipment:

- i) Two Nos. of 60 Ton Harbour Mobile Cranes,
- ii) 2 Nos. of 500 HP front end loaders,
- iii) 1 No. of 10 T. fork lift truck.
- iv) Electrical works and lighting.
- Develop utilities and services such as communication, office accommodation, etc required for operation of the berth.
- Compliance with environmental laws during implementation i.e. construction, operation and maintenance.

Services means :

- (a) Providing berthing facilities to the vessels.
- (b) Providing handling facilities for discharge, storage, delivery and receipt, storage, shipment of cargoes duly achieving the standards of performance, safety, etc., as set out in the Concession Agreement and rendering all other services incidental thereon.
- (c) Taking custody of cargo both in terms of Customs Act, 1962 and M.P.T. Act, 1963.
- (d) Providing any other services to ships except pilotage, towage and mooring.



Annexure to Appendix-4

CONSTRUCTION STANDARDS, OPERATIONS AND MAINTENANCE
STANDARDS AND SAFETY STANDARDS

Planning, design, engineering, installation, operation and maintenance of all developmental works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant International Standards shall be complied with. List of standards for construction, operation & maintenance are annexed to this Article. In the absence of both, the Concessionaire should follow Good Industry Practice. Safety precautions, as per statutory requirements, shall also be complied with. The Concessionaire shall ensure compliance to Quality, Environmental, Occupational Health and Safety and ISPS Codes.

A. General

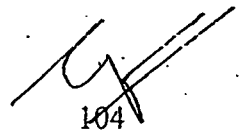
The Concessionaire shall execute the project by completing civil works as per the Project Requirements and provide appropriate equipment for cargo handling and other support facilities for proper and efficient functioning.

The Concessionaire shall carry out Construction Works, etc duly complying with the provisions of all relevant latest Indian Standards and in case certain item of works not covered by the Indian Standards, provisions of ISO / IEC / OISD standards, etc shall be complied.

The construction of civil works, facilities, erection & commissioning of lifting appliances, equipment and machinery and their layout shall ensure that during cargo operations these facilities meet the required provisions of the Dock Workers Safety Health & Welfare Act, 1986 and the relevant Regulations 1990.

The Concessionaire shall meet the requirements of Management Quality System (IS/ISO - 9001: 2000) and shall also obtain accreditation for operations at the terminal. In addition, the Concessionaire shall comply with all relevant statutory regulations, codes, practices and guidelines.

It is not intended to specify herein all the relevant standards required to complete the Project. Such of those standards considered more pertinent are listed in this Annexure.


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B. Civil Construction Work

B. 1. Dry Bulk, Break Bulk & Container Terminals

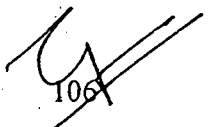
The civil construction work may comprise variety of works such as dredging, reclamation, construction of breakwaters, berths, development of back-up area for storage and handling of dry bulk cargo, approach roads, operational buildings/offices, maintenance workshop, drainage, water supply, environmental protection works and other amenities. The Concessionaire is required to undertake all tests required as per IS/ ISO/IEC standards to ensure that the construction work carried out by him meets not only the functional requirements of the project but also conforms to the required quality as per the standards. In addition, the Concessionaire shall also comply with the provisions of specifications published by the Indian Road Congress, as may be pertinent to the Project. In respect of implementing the Project, the Concessionaire shall refer to and as relevant comply with the design and construction standards specified in the following paragraphs.

Indian Standards for Construction of Ports and Harbours

IS 4651 – Part – 1 – 1974	Code of practice for planning and design of ports and harbours: Part 1 Site investigation
IS 4651–Part 2–1989	Code of practice for planning and design of ports and harbours Part 2 Earth pressure
IS 4651-Part III-1974	Code of practice for planning and design of ports and harbours: Part III: Loading
IS 4651- Part 4 -1989	Code of practice for planning and design of ports and harbours: Part 4: General Design consideration.
IS 4651-Part 5-1980:	Code of practice for planning and design of ports and harbours Part:5 Layout and functional requirements
IS 7314: 1974	Glossary of terms relating to port and harbour engineering
IS 9527: Part 1: 1981	Code of practice for design and construction of port and harbour structures: Part 1 Concrete monoliths
IS 9527: Part 3:: 1983	Code of practice for design and construction of port and harbour structure: Part 3 Sheet pile walls
IS 9527: Part 4: 1980	Code of practice for design and construction of port and harbour structure: Part 4 Cellular Sheet pile structures
IS 9527: Part 6: 1989	Code of practice for design and construction of port and harbour structures: Part 6 Block work
IS 10020: Part 4: 1981	Recommendations for design and construction of port and harbour components Part 4 Slipways.
IS 9556: 1980	Code of Practice for design and construction of diaphragm walls

Indian Standards for Foundation Work

IS 2911: Part 1: Sec 1: 1979	Code of practice for design and construction of pile foundations Part 1 Concrete piles, Section 1, Driven cast in-situ concrete piles
IS 2911: Part 1: Sec 2: 1979	Code of practice for design and construction of pile foundations: Part 1 Concrete piles, Section 2 Bored cast in-situ piles
IS 2911: Part 1: Sec 3: 1979	Code of practice for design and construction of pile foundations: Part 1 Concrete piles, Section 3 Driven pre-cast concrete piles
IS 2911: Part 1: Sec 4: 1984	Code of practice for design and construction of pile foundations. Part 1 Concrete piles, Section 4 Bored pre-cast concrete piles
IS 2911: Part 2: 1980	Code of practice for design and construction of pile foundations: Part 2 Timber piles
IS 2911: Part 3: 1980	Code of practice for design and construction of pile foundations: Part 3 Under reamed piles.
IS 2911: Part 4: 1985	Code of practice for design and construction of pile foundations: Part 4 Load test on piles
IS 2950: Part 1: 1981	Code of practice for design and construction of raft foundations – Part I: Design
IS 2974: Part 1: 1982	Code of practice for design and construction of Machine Foundations- Part 1: Foundation for Reciprocating Type Machines.
IS 2974: Part 2: 1980	Code of practice for design and construction of machine foundations. Para 2 Foundations for impact type machine (hammer foundations)
IS 2974: Para 3: 1992	Code of practice for design and construction of machine foundations for rotary type machines. (medium and high frequency)
IS 2974:: 1979:	Code of practice for design and construction of machine foundations: Part 4 Foundations for rotary type machines of low frequency.
IS 2974: Part 5: 1987	Code of practice for design and construction of machine foundations Part 5 Foundations for impact machines other than hammers (forging and stamping press, pig breaker drop crusher and jolter)
IS 1080: 1985	Code of Practice for design and construction of shallow foundations on soils (other than raft, ring and shell).


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IS 13094: 1992

Guidelines for Selection of ground improvement techniques for foundation in weak soils.

Indian Standards for Structural Design

IS 875(Part I to V): 1987

Code of Practice for design loads (other than earthquake) for buildings – dead loads, imposed loads, wind loads, snow loads, special loads and load combinations.

IS 456: 2000

Code of Practice for plain and reinforced concrete. IS:

800: 1984

Code of practice for general construction in steel

IS: 801: 1975

Code of practice for use of cold formed light gauge steel structural members in general building construction.

IS: 803: 1976

Code of practice for Design fabrication and Erection of vertical mild steel cylindrical welded oil storage tanks.

IS 1893: Part 1: 2002

Criteria for Earthquake Resistant Design of Structures

Part I – General Provision and Buildings

IS 1893: Part 4: 2005

Criteria for earthquake resistant design of structures
–Part 4- Industrial Structures including Stack-like Structures.

IS 4326: 1993

Code of Practice for Earth Quake Resistant design and construction of buildings.

C. Cargo Handling Equipment

Structures and Mechanism

IS 807: 2006

Design, erection and testing (Structural Portion) of Cranes and Hoists – Code of Practice.

BS 5400 – Part 10 Steel concrete and composite bridges - Code of practice for fatigue

IS 4137 - 1985

Specification for heavy duty electric overhead traveling and special cranes for use in steel works

Material

IS 800: 1984

Code of Practice for general construction in steel

IS 2062: 2006 Hot rolled low medium and high tensile Structural
Steel

IS 2644: 1994 High tensile steel castings

IS 2266: 2002 Steel Wire Ropes for General Engineering
Purposes-specification

IS 3177: 1999 Code of Practice for Electric Overhead Traveling
Cranes and Gantry Cranes other than Steel Work.
Cranes

Electricals

IEC standards

IEE – regulations for the electrical equipment of buildings

BS 4999 / FEM 3rd edition Booklet 4 - Motors

BS 171, BS 3941, BS 3938 - Transformers

BS 99 - Fuses

Welding

IS 7307: Part 1: 1974 Approval test for welding procedures Part 1 Fusion
welding of steel.

IS 7310: Part 1: 1974 Approval test for Welders working to approved
welding procedures – Part 1: Fusion welding of
Steel.

Painting

BS 5493 Code of practice for protective coating of iron and
steel structures against corrosion

Swedish Standard Sa 2,5 or SIS ST3, SIS 055900 surface preparation

General

IS 13367: Part 1: 1992 Safe use of Cranes - Code of Practice Part 1 General

Classification of Crane

Structures

Class of utilization: U8 (4 Million loading cycles) State of loading:

Q3

Group classification: A8

Impact factor: 1.4

Duty factor: 0.9

Nominal load spectrum: 0.8 of rated capacity factor

Mechanism

Class of Utilization State of Loading Group Classification

Hoist	T8	L3	M
Traverse	T8	L3	M
Travel	T5	L2	M
Boom hoist	T3	L3	M

The wharf cranes shall be designed for Stability as per BS 2573 Part I & II.

C-3 Mobile Equipment

IS 4357: 2004	Methods for Stability Testing of Fork Lift Trucks
IS 4573: 1982	Specification for Power Driven Mobile Cranes
IS 13473: Part 2:1992/	Cranes - Vocabulary Part 2 Mobile cranes ISO
	4306-1985
IS 13558: Part 2:1995/	Cranes - Controls - Layout and Characteristics - Part
	ISO 7752 -2- 1986 Mobile Cranes
IS 13834 : Part 2: 1993/	Cranes - Classification: Part 2 Mobile cranes ISO
	4301 - 2 :1985
IS 13870: Part 2: 1993/	Cranes and Lifting Appliances - Selection of Wire
	ISO 4308 : 1988 Ropes - Part 2: Mobile Cranes -
	Coefficient of utilization
IS 14469:1997/	Mobile Cranes - Determination of Stability ISO
	4305 - 1991
IS 14474: Part 1: 1997/	Mobile Cranes - Experimental Determination of Crane
	ISO 11662-1 :1995 Performance - Part 1 : Tipping
	Loads and Radii
IS 3173: 1965	Specification for High pressure connections for fuel
	injection equipment for diesel engines

C-4 Conveyors for Bulk Handling
Conveyors

IS 4776:Part I: 1977	Specification for Troughed Belt Conveyors- Part I
	Troughed Belt Conveyors for Surface Installation
IS 8597 - 1977	Flat Belt Conveyors

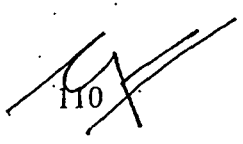
IS 11592 – 2000	Code of practice for selection and design of Belt Conveyors
IS 7465 – 1974	Portable and Mobile troughed Belt Conveyor
IS 7155:Part 1: 1986	Code of recommended practice for conveyor safety : Part 1 General Information
IS 7155:Part 2: 1986	Code of recommended practice for conveyor safety : Part 2 General Safety requirement
IS 7155:Part 3: 1986	Code of recommended practice for conveyor safety : Part 3 Belt Conveyors and feeders
IS 7155:Part 4: 1990	Code of recommended practice for conveyor safety : Part 4 Vibrating Conveyor/feeder
IS 7155:Part 5: 1990	Code of recommended practice for conveyor safety : Part 5 Apron Conveyor/Apron Feeder
IS 7155:Part 6: 1990	Code of recommended practice for conveyor safety : Part 6 Selection, Training and Supervision of Operators
IS 7155:Part 7: 1990	Code of recommended practice for conveyor safety : Part 7 Inspection and Maintenance
IS 7155:Part 8: 1994	Code of recommended practice for conveyor safety : Part 8 Flight Conveyors (scraper conveyors)

Idlers and Pulleys

IS 8598 – 1987	Idlers and Idlers Sets
IS 8531 – 1986	Pulleys for Conveyors
IS 11507 – 1985	Synchronous Drive Pulleys

Conveyor Belts

IS 1891(Part I & II)-1978	Rubber Conveyor Belting
IS 1891 – 1988	Amendment to above conveyor
IS 22131 Part I 1980	Steel Cord Conveyor Belting

D. Electrical

IS 325: 1996	Three-phase induction motors
IS 900: 1992	Code of practice for installation and maintenance of induction motors
IS 1231: 1974	Dimensions of Three-phase Foot-mounted Induction Motors
IS 2223: 1983	Dimensions of flange mounted ac induction motors
IS 3682: 1966	Flame-proof ac motors for use in mines
IS 3842: Part 2 : 1966	Application guide for electrical relays for ac systems: -Part 2-Over current relays for generators and motors
IS 4029: 1967	Guide for testing three-phase induction motors
IS 8151: 1976	Single-speed three-phase induction motors for driving lifts
IS 8789: 1996	Values of performance characteristics for three-phase induction motors
IS 9628: 1980	Three-phase induction motors with type of protection 'n'
IS 10242: Part 3 : Sec 1:1983	Electrical installations in ships: Part 3 Equipment, Sec 1 Generators and motors
IS 12615: 2004	Energy Efficient Induction Motors. - Three Phase Squirrel Cage
IS 13529: 1992	Guide on Effects of Unbalanced Voltages on the Performance of Three-Phase Cage Induction Motors
IS 13555: 1993	Guide for Selection and Application of 3-Phase A. C. Induction Motors for Different Types of Driven Equipment
IS 14122: 1994	Built in thermal protection for electric motors rated up to 660 V ac
IS 14377: 1996	Specification for Three-phase Induction Motors for Fans Used in Air-conditioning and Ventilation
IS 15429: 2004	Storage, Installation and Maintenance of DC Motors - Code of Practice
IS 3043: 1987	Code of practice for earthing
IS 3151: 1982	Earthing transformers
IS 5553(Part 6) 1991	Reactor Parts - Earthing of Transformers
IS 9921: Part 1: 1981	Specification for Alternating Current Disconnections (Isolators) and Earthing Switches for Voltages above 1 000 V - Part I: General and Definitions



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IS 9921: Part 2: 1982	Alternating current disconnections (isolators) and earthing switches for voltages above 1000 V: Part 2 Rating
IS 9921: Part III: 1982	Specification for Alternating Current Disconnections (Isolators) and Earthing Switches for Voltages above 1000 V - Part III: Design and Construction
IS 9921: Part 4: 1985	Specification for Alternating Current Disconnections (isolators) and Earthing Switches for Voltages Above 1000 V - Part 4: Type Tests and Routine Tests
IS 9921: Part 5: 1985	Specification for Alternating Current Disconnections (Isolators) and Earthing Switches for Voltages Above 1000 v - Part 5: Information to be given with Tenders, Enquiries and Orders
IS 12776: 2002	Galvanized Strand for Earthing - Specification
IS 14981: 2001	Live Working - Earthing or Earthing and Short-Circuiting Equipment Using Lances as a Short-Circuiting Device-Lance Earthing
IS 13947: Part 2 : 1993	Specification for Low-voltage Switchgear and Control gear - Part 2 : Circuit Breakers
IS 14658: 1999	High Voltage Alternating Current Circuit Breakers - Guide for Short-circuit and Switching Test Procedures for Metal-enclosed and Dead Tank Circuit Breakers
IS 8828: 1996	Electrical Accessories - Circuit Breakers for Over Current Protection for Household and Similar Installations
IS 2309: 1989	Code of Practice for Protection of allied structure against lightning
IS 732	IS 732: 1989 Code of Practice for Electric wiring installation
IS 694: 1990	PVC insulated Cables for working voltages upto and including 1100V
IS 1554 (Part 1):1988	PVC insulated (Heavy Duty) electric cables : Part 1 for working voltages upto and including 1100 V
IS 1554 (Part 2) : 1988	PVC insulated (Heavy Duty) electric cables : Part 2 for working volages from 3.3 kV upto and including 11 kV
IS 7098 (Part 1) : 1988	Cross linked Polyethelene insulated PVC sheathed cables Part 1 for working voltages upto and including 1100 V
IS 7098 (Part 2) : 1985	Cross linked Polyethelene insulated PVC sheathed

cables Part 2 for working voltages from 3.3 kV upto and including 33 kV

IS 7098 (Part 3) : 1988	Cross linked Polyethelene insulated PVC sheathed cables -Part 3 for working voltages from 66 kV upto and including 220 kV
IS 10118 (Part 1) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears : Part 1 General
IS 10118 (Part 2) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears: Part 2 Selection
IS 10118 (Part 3) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears: Part 3 Installation
IS 10118 (Part 4) : 1982	Code of Practice for selection, installation & maintenance of switchgears and Control gears: Part 4 Maintenance

For all other equipment not covered in the above standards, equivalent or higher standards in BS, JIS, FEM, DIN, ISO, IEC, are acceptable.

E. Operations & Maintenance Standards: Repairs, Maintenance and Replacement

The Concessionaire at it's own cost promptly and diligently maintain, replace or restore any of the project facilities or part thereof which may be lost, damaged, destroyed or worn out.

The Concessionaire shall abide by the operations and maintenance plan as outlined in the Manufacturer's Manual Which need to be supplied to the concessioning authority by the Concessionaire.

While carrying out the repairing, maintaining and replacing the Project Facilities, the Concessionaire acknowledges and accepts that it is holding and maintaining the Concession or Port Assets, Project Facilities in trust for eventual transfer to the Concessioning Authority on termination of the Agreement and therefore, will not do any act as a result of which the value of Port Assets and Project Facilities and Services is diminished.

The Concessionaire shall, at all times during the Concession Period, at its own risk, cost, charges and expenses, performance and pay for maintenance repairs, renewals and replacement of various type of assets and equipment in the

concessionaire premises and /or the project or any parts thereof, whether due to use and operations or due to deterioration of materials and /or parts, so that on the expiry or termination of Concession, the same shall except normal wear and tear be in good working condition as it were at the time of commencement of the Concession.

While carrying out the repair, maintenance and replacement of the Project Facilities, the Concessionaire shall carry out the work in accordance with the manufacturer's recommendations and the relevant latest Indian Standards or in its absence ISO/OISD Standards. In the event that the Concessionaire, by necessity or otherwise need to follow any other country standard and it shall be equal or superior to the standard specified above.

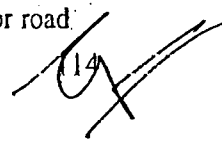
The repairs and maintenance shall generally conform to the following specifications.

E.1 Maintenance Standards

ISO 4308-1-2003	Maintenance of lifting appliances
ISO 4309-2004	Cranes wire rope care, maintenance and discard
IS 13367: Part 1 : 1992	Safe use of cranes – Code of Practice Part I General
BS 7121-2-2003	Code of Practice for safe use of cranes, inspection, testing & examination
BS 7121-4-1997	Code of Practice for safe use of cranes (Lorry Loaders)
BS 7121-5-2006	Code of Practice for safe use of cranes (Tower Cranes)

E.2 Painting

IS 144 : 1950	Ready mixed paint, brushing, petrol resisting, air-drying, for interior painting of tanks and container, red oxide (colour unspecified)
IS 145 : 1950	Ready mixed paint, slushing, petrol resisting, air-drying for interior painting of tanks and containers, red oxide (colour unspecified)
IS 146 : 1950	Specification for ready mixed paint, brushing, petrol resisting, stoving, for interior painting of tanks and containers, red oxide (colour unspecified)
IS 147 : 1950	Specification for ready mixed paint, slushing, petrol resisting, stoving, for interior painting of tanks and containers, red oxide (colour unspecified)
IS 164 : 1981	Specification for Ready mixed paint for road



IS 1419 : 1989	marking (first revision) Antifouling paint, brushing for ship's bottom and hulls-Specification (second revision)
IS 6714 : 1989	Ready mixed paint, finishing, non-slip, deck - Specification (first revision)
IS 6948 : 1973	Specification for Ready mixed paint, undercoat, synthetic for ships
IS 6951 : 1973	Specification for Ready mixed paint, finishing, exterior for ships
IS 1477 : Part I : 1971	Code of Practice for Painting of Ferrous Metals in Buildings - Part I : Pretreatment
IS 1477 : Part 2 : 1971	Code of practice for painting of ferrous metals in buildings: Part 2 Painting
IS 9954 : 1981	Pictorial Surface Preparation Standards for Painting of Steel Surfaces

F. Safety Standards

The Concessionaire shall ensure compliance with the safety standards set out under Applicable Law/international conventions, as relevant, from time to time including those required under the following :

1. Dock Workers (Safety, Health and Welfare) Act, 1986 & Regulations framed thereunder of 1990.
2. The Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.
3. The Petroleum Act, 1934 along with the Petroleum Rules, 2002.
4. OISD - Guidelines - 156 (Oil Industry Safety Directorate): Fire Protection Facilities for Port Oil Terminals.
5. The Explosives Act, 1884 alongwith The Explosive Substance Act, 1983 & The Explosive Rules, 1983
6. Guidelines by Fire Advisor, CCE & DG FASLI, Government of India
7. National Fire Codes (National Fire Protection Association - USA)
8. Drill Manual for the Fire Services of India.
9. International Safety Guide for Oil Tankers & Terminals.
10. ISPS (International Ship & Port Facility Security) Code (2003 Edition)
11. MARPOL CONVENTION
12. International Maritime Dangerous Goods Code
13. Andhra Pradesh Fire Services Act 1999 (Andhra Pradesh Fire Services Act 1999 Services (Amendment) Act 2006.
14. National Building Code of India.

SAFETY REQUIREMENTS

1 Guiding Principles

1.1 Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents, irrespective of the person(s) at fault.

1.2 Users include motorised and non-motorised vessels and vehicles as well as pedestrians involved in, or associated with accidents.

1.3 Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same, and implementation of appropriate remedial measures.

1.4 Safety Requirements include measures associated with traffic management and regulation such as signs, pavement marking, traffic control devices, Port Terminal furniture, design elements, enforcement and emergency response.

2 Obligations of the Concessionaire

The Concessionaire shall abide by the following insofar as they relate to safety of the Users:

- (a) Applicable Laws and Applicable Permits;
- (b) Manual for Safety in Port Design and Operation, issued by DoS/Trust;
- (c) Provisions of this Agreement; and
- (d) Good Industry Practice.

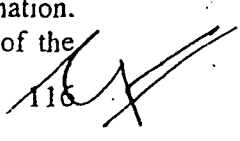
3 Appointment of Safety Consultant

For carrying out safety audit of the Project, the Concessioneing Authority shall appoint from time to time, one or more qualified firms or organisations as its consultants (the "Safety Consultant"). The Safety Consultant shall employ a team comprising, without limitation, one Port safety expert and one navigation expert to undertake safety audit.

4 Safety measures during Construction period

4.1 Not later than 90 (ninety) days from the date of this Agreement, the Concessioneing Authority shall appoint a Safety Consultant for carrying out safety audit. The Safety Consultant shall collect data on all accidents in the preceding two years by obtaining copies of the relevant information from the Concessioneing Authority. The information shall be analysed for the type of victims killed or injured, impacting vessels or vehicles, location of accidents and other relevant factors.

4.2 The Concessionaire shall provide to the Safety Consultant, in four copies, the relevant drawings containing the design details that have a bearing on safety of Users (the "Safety Drawings"). Such design details shall include horizontal and vertical alignments; sightlines; Layout of the Project; provision for parked vessels and vehicles, slow moving vehicles (tractors, carts) and pedestrians; and other incidental or consequential information. The Safety Consultant shall review the design details and forward three copies of the



Safety Drawings with its recommendations, if any, to the Independent Engineer who shall record its comments, if any, and forward one copy each to the Concessing Authority and the Concessionaire.

4.3 The accident data and the design details shall be compiled, analysed and used by the Safety Consultant for evolving a package of recommendations consisting of safety related measures for the Project. The safety audit shall be completed in a period of three months and a report thereof (the "Safety Report") shall be submitted to the Concessing Authority, in five copies. One copy each of the Safety Report shall be forwarded by the Concessing Authority to the Concessionaire and the Independent Engineer forthwith.

4.4 The Concessionaire shall endeavor to incorporate the recommendations of the Safety Report in the design of the Project, as may reasonably be required in accordance with Applicable Laws, Applicable Permits, Manuals and Guidelines, Specifications and Standards, and Good Industry Practice. If the Concessionaire does not agree with any or all of such recommendations, it shall state the reasons thereof and convey them to the Concessing Authority forthwith. In the event that any or all of the works and services recommended in Safety Report fall beyond the scope of Schedule, the Concessionaire shall make a report thereon and seek the instructions of the Concessing Authority.

4.5 Without prejudice to the provisions of Paragraph 4.4, the Concessionaire and the Independent Engineer shall, within 15 (fifteen) days of receiving the Safety Report, send their respective comments thereon to the Concessing Authority, and not later than 15 (fifteen) days of receiving such comments, the Concessing Authority shall review the same along with the Safety Report and by notice direct the Concessionaire to carry out any or all of the recommendations contained therein with such modifications as the Concessing Authority may specify; provided that any works or services required to be undertaken hereunder shall be governed by the provisions thereon.

4.6 The Safety consultant, 4 (four) months prior to the expected Project completion date, shall study the Safety Report and inspect the Project to assess the adequacy of safety measures. The Safety Consultant shall complete the safety audit within a period of 4 (four) months and submit a Safety Report recommending a package of additional safety measures, if any, that are considered essential for reducing accident hazards on the Project. Such recommendations shall be processed, mutates mutandis, and acted upon in the manner set forth in Paragraphs 4.3, 4.4 and 4.5 of this Schedule.

4.7 The Concessionaire shall make adequate arrangements during the Construction Period for the safety of workers and Users in accordance with Good Industry Practice for safety in construction zones, and notify the Trust and the Independent Engineer about such arrangements.

5. Safety measures during Operation Period

5.1 The Concessionaire shall develop, implement and administer a surveillance and safety programme for Users and workers, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement.

5.2 The Concessionaire shall establish a Port Safety Management Unit (the "PSMU") to be functional on and after date of commercial operations, and designate one of its officers to be

in-charge of the PSMU). Such officer shall have specialist knowledge and training in Port safety by having attended a course conducted by a reputed organization on the subject.

5.3 The Concessionaire shall keep a copy of every FIR recorded by the Police with respect to any accident occurring on the Project. In addition, the Concessionaire shall also collect data for all cases of accidents not recorded by the Police but where a vessel or vehicle rolled over or had to be towed away. The Concessionaire shall also record the exact location of each accident on a map of the Project. The aforesaid data shall be submitted to the Concessing Authority at the conclusion of every quarter and to the Safety Consultant as and when appointed.

5.4 The Concessionaire shall submit to the Concessing Authority before the 31st (thirty first) May of each year, an annual report (in ten copies) containing, without limitation, a detailed listing and analysis of all accidents of the preceding Accounting Year and the measures taken by the Concessionaire pursuant to the provisions of Paragraph 5.1 of this Schedule for averting or minimizing such accidents in future.

5.5 Once in every Accounting Year, a safety audit shall be carried out by the Safety Consultant to be appointed by the Concessing Authority. It shall review and analyse the annual report and accident data of the preceding year, and undertake an inspection of the Project. The Safety Consultant shall complete the safety audit within a period of 1 (one) months and submit a Safety Report recommending specific improvements, if any, required to be made to the Project. Such recommendations shall be processed, mutates mutandis, and acted upon in the manner set forth in Paragraphs 4.3, 4.4 and 4.5 of this Schedule.

6 Costs and expenses

Costs and expenses incurred in connection with the Safety Requirements set forth herein, including the provisions of Paragraph 2 of this Schedule, shall be met in accordance with provisions thereon, and in particular, the remuneration of the Safety Consultant, safety audit, and costs incidental thereto, shall be shared equally between the Concessing Authority and Concessionaire.

2. RECOMMENDED INSPECTION PERIOD FOR THE PROJECT:

The periodicity for the routine inspection of the principle items of the Project is as follows:

TYPE OF STRUCTURE OR EQUIPMENT	PERIOD MONTHS	FORM OF INSPECTION
Marine Fixtures viz. Bollards, Fenders, mooring rings, ladders, mooring chains etc	12	Visual
Generating stations and sub-stations	12	Visual & physical
Quay Walls	12	Visual-diver as necessary
Navigation Masts	12	Physical
Warehouses, sheds etc	12	Visual
Workshops and machinery	12	Visual & physical
Roads and paving	6	Visual
Railways Track	1	Visual & physical

APPENDIX 5
PROJECT SCHEDULE

Milestone date	Activity/level of completion of Project
180 Days from Date of Award of Concession	25% of Construction Works should have been completed
365 Days from Date of Award of Concession	50% of Construction Works should have been completed
730 Days from Date of Award of Concession	100% of Construction Works should have been completed

The detailed CPM chart shall be furnished by the concessionaire



APPENDIX 6

DESIGNS AND DRAWINGS

The facility shall be designed for an annual throughput of not less than 3.0 million tonnes. The facility shall consist of Berths, mechanical equipment consisting of harbour mobile cranes, front end loaders, fork lift trucks for loading / unloading, transportation to the stack yard for bulk dry cargos such as C.P.Coke, LAM Coke, Steel and Granite blocks.

a. Mechanical and Electrical equipment:

All the mechanical equipment and electrical equipment shall be designed as per the relevant IS code specified in Appendix-4 / manufacturers manual. The designs and the manufacturers drawings for the equipment shall be submitted by the Concessionaire for approval of the Independent Engineer.

b. Civil / Structural System

The work methodology adopted, the materials used and their sources should conform to standard engineering practices.

Minimum grade of concrete and grade of cement shall satisfy the requirement as stated in IS 456 (latest). Concrete in sea water or directly along the sea coast shall be at least of grade M30 as per IS 456 (latest).

The buildings shall be R.C.C. framed structure with brick wall panels. The ground slab shall be R.C.C. with plinth beams.

Steel structure shall be designed as per IS-800. Deflection limits of the structure shall be as per IS 11592 (code of practice for selection and design of belt conveyor).

The storage yard shall have a peripheral drainage channel to conduct surface water run-off to the drains outside.

The roads and parking areas shall be designed in accordance with the provision of the latest edition of the relevant I.R.C. codes of practice. The drains shall be of trapezoidal / rectangular section. R.C.C. pipe culverts / box culverts shall carry drainage under roads. Fence and gate shall be provided around the licensed area.

Fire protection system

Necessary Fire Fighting arrangements shall be made by the Concessionaire as required at the berth as well as the stack yard.

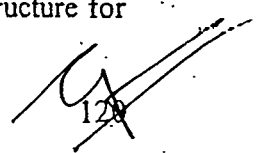
DESIGN

The berth design shall be based on the detailed survey and investigation data collected by the Concessionaire. The drawings prepared on the basis of these designs along with the drawings required shall form part of the Concession Agreement.

All the designs and drawings shall be submitted to the Independent Engineer for review and comments. The work shall be carried out in accordance with these drawings and such other additional drawings prepared or modified as per comments of the Independent Engineer.

Berth design :

The Concessionaire unless otherwise specified may adopt any type of structure for the berth construction.



Design Criteria :

The loading standards for WQ-6 berth will have to conform to the Bureau of Indian Standards in the absence of which other relevant standards may be followed. The following data is to be used in designing the berthing structure.

A) Vertical live load :

- i) Electrical wharf crane with 10.00 Mtrs. gauge with 5% impact factor. (Detailed sketches showing loading of the crane wheels are enclosed) (Annexure-A), the design should also cater for an increase in the loading up to 50% over those given in the sketches.
- ii) B.G. Railway main line loading with impact factor anywhere on wharf (As per Railway Standard).
- iii) Loaded crawler crane (contact area of each track about 0.90 m X 4.6 m) dead weight of the crane being 99 T. and lifting capacity 100 tonnes at lifting radius 4.50m. I.R.C. 70 R tracked or wheeled vehicles loading (IRC 6)
- iv) Uniformly distributed load of 5 tonnes per Sq. Mtrs. on the wharf and on fill behind (IS 4651 Pt.III).
- v) The deck elements shall also be designed for localized concentrated loads. For this purpose a concentrated load of 20 tons with line contact of 1.00 M. is to be considered on a width of 0.20 M.

B) LATERAL LOAD :

- i) Earth pressures :
Due to soil in contact with the structures including the effect of surcharge loading of 5 t./sq.m. behind the berth.
For computation of earth pressure, the soil parameters as per the design soil profile given earlier shall only be followed.
- ii) Berthing impact.
A horizontal reaction forces of 240 tonnes on any fender unit.
For locations other than at fenders units, the fascia wall and the structure behind shall be designed to withstand a horizontal impact force of 30 tonnes as a point load.
- iii) Bollard pull :
90 tonnes on each of the bollards to act simultaneously on all the bollards of every unit of berth from joint to joint.
- iv) Braking forces of $1/40^{\text{th}}$ vertical live load.
- v) Seismic and wind force as per relevant IS code.
- vi) The effect of temperature on shrinkage forces.
- vii) Design dredged depth : (-) 4 Mtrs.
- viii) Permissible Stresses, partial safety factors for loads.

1) SUB-STRUCTURE

- a) Limit state method of design is to be adopted and partial safety factors on materials and loads are as follows :
 - i) Partial safety factors for materials strength of concrete : 1.50
 - ii) Allowable stress in steel :
Under factored load condition – 250 N/mm²
Under working load condition – 165 N/mm²

iii) Load factors : DL LL and Earth pressure (E.P) - 1.50

b) No increase in the permissible stress is allowed under the load combination of 1.5 (DL + LL + EP)

c) Surface crack width is limited to 0.004 times the clear cover to the main reinforcement.

d) M30 grade of concrete and FE 415 grade of steel are to be used.

2. SUPERSTRUCTURE:

a) Limit state method of design is adopted and partial safety factors on materials and loads are as follows :

i) Partial safety factor for material strength of concrete : 1.5

ii) Allowable stress in steel :

Under factored load condition - 250 N/mm^2

Under working load condition - 165 N/mm^2

iii) Load factors.

a) DL LL and earth pressure - 1.50

b) 15% increase in the allowed stress in steel is allowed while designing the dock system for load combination of 1.5 (DL + LL + EP).

c) Surface crack width is limited to 0.004 times to clear cover to the main reinforcement.

d) M30 grade of concrete and Fe 415 grade of steel are to be used.

e) Minimum reinforcement in piles shall be 0.8% of the cross sectional area for any type of pile.

f) No alternative system with anchors (dead man etc., extending beyond the rear face of the berth will be considered).

g) Required Holes of pressure relief in the dock shall be provided.

h) Expansion joints in the structure shall be provided as required.

Design of structures:

General:

i) The complete structure shall be designed to be safe against collapse and to maintain at all times and acceptable serviceability level. These shall also be designed to be durable to withstand the deteriorating effects of climate and environment.

ii) Care shall be taken to provide proper joint treatment between the existing WQ-5 berth and WQ-6 berth. Suitable arrangement shall be planned, designed, constructed by the Concessionaire and the details shall be submitted to the Independent Engineer for review and comments. It is further agreed that any failure or omission of the Independent Engineer to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Independent Engineer and/or its failure to review and/or convey its observations on any document/drawing shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

- iii) The Concessionaire is encouraged to adopt innovative/latest techniques in design, construction and use of new materials. However, in all such cases Concessionaire shall submit all the relevant details along with guidelines and proprietary literature proposed to be followed to Independent Engineer for review and comments. It is further agreed that any failure or omission of the Independent Engineer to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Independent Engineer and/or its failure to review and/or convey its observations on any document/drawing shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

Type of Structure:

- i) The Concessionaire may choose any type of structure and structural system. Design and layout of structures shall be suitable for the soil/site conditions.
- ii) The berth super structure, sub-structure and foundation may be of plain or reinforced concrete, pre-stressed concrete or steel concrete composite construction.
- iii) The following type of structures shall not be accepted:
 - a) Steel sheet pile wall type of construction.
 - b) Wooden piled jetty.

Design period:

The structure shall be designed for design life of 50 (Fifty) years.

Width of the berth:

The width of the berth shall be not less than 15 Mtrs.

Analysis and design of structures:

All structures and their individual components shall be designed and developed as per the latest relevant Indian Standard Codes depending upon the type of structure/individual component proposed to be provided. The minimum cross sectional dimensions of each component shall be provided so as to satisfy the requirements specified in the relevant IS codes and the design shall taken in to account long term durability, serviceability, constructability, construction methodology and environmental factors. The earth retaining structures shall be designed for lateral earth pressure, surcharge and hydrostatic pressures and other horizontal loads.

Design report and Drawings:

The Concessionaire shall furnish the detailed report including designs and drawings for each component of the Project such as layout plan, berth structures, drainage, fixtures and other user facilities etc., as per the requirements specified to the Independent Engineer for his review and comments if any. It is further agreed that any failure or omission of the Independent Engineer to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Independent

Engineer and/or its failure to review and/or convey its observations on any document/drawing shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

MATERIALS

General:

Sourcing of all materials as well as compliance with Environmental requirements under the Applicable Laws in respect of all works to be executed under the Concession Agreement shall be the sole responsibility of the Concessionaire. All materials whether natural (such as earth, gravel, sand, aggregates etc.,) processed (such as concrete mixes, bitumen) or manufactured (such as cement, steel, bollards, fenders, ladders, crane rails etc.,) shall be incorporated in the work only if they are tested and found to meet the requirements of the standards or in the absence of the same conform to the Good Industry Practice.

Natural Materials:

Physical requirements of earth, gravel, sand and aggregates shall conform to the requirements of the provisions of the relevant Indian Standards.

Natural aggregates when crushed and blended for various uses different size fractions shall be proportioned to form grading conforming to the requirements of the relevant Indian Standards as are relevant to the intended use of the material.

Processed materials:

Cement concrete mixes:

Concrete mixes plain or reinforced shall be design mixes designed in accordance with the provisions of IS 456. Concrete of M-30 grade or higher shall be used for the project except for the leveling course in foundations where M-15 grade concrete shall be used. Specific requirements of the mixes (such as workability, water cement ratio, use of admixtures, grades of cement and steel, minimum and maximum cement content, 7 days and 28 days strengths etc.,) shall be as per those provisions of relevant Indian Standard specifications as are relevant to the intended use of the concrete mix.

Bituminous mixes:

Bituminous mixes shall be hot mix type and shall be designed in accordance with the provisions of MOST specifications as relevant to the type of mix intended to be used.

Manufactured materials:

Cement:

Ordinary Port land cement grades 33, 43 and 53 conforming to IS : 269, IS : 8112 and IS : 12269 respectively or Port land slag cement conforming to IS : 455 shall be used subject to the condition that the design cement content does not exceed 540 KG/cum and the minimum requirement of cement from durability considerations are provided. It is expressly clarified that the use of Port land pozzolana cement shall not be permissible for any structural concrete.

Bitumen:

Paving grade bitumen conforming to IS : 73 shall be used. Crumb rubber modified bitumen (CRMB) and polymer modified bitumen (PMB) conforming to IRC :SP: 53 shall be used.



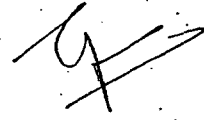
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Steel :

High yield strength deformed (HYSD) reinforcing bars of Fe -415 grade conforming to IS:1786 and high tensile strength pre-stressing tendons conforming to IS:6006 shall be used.

Expansion joints, anchorages, fenders, bollards, ladders shall meet the relevant provisions of the Indian Standard Codes, recommendations of the system providers, manufacturers testing and certification and the designers design assumptions.

The Concessionaire may use other construction materials for which a detailed design procedure to be adopted shall be furnished to Independent Engineer for review and comments.



APPENDIX 7

TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

1. Role and functions of the Independent Engineer

The Independent Engineer is expected to play a positive and independent role in discharging its functions, thereby facilitating the smooth implementation of the Project. The role and functions of the Independent Engineer shall include the following:

- (i) review of the Designs and Drawings;
- (ii) review, inspection and monitoring of Construction Works;
- (iii) conducting Tests on completion of construction and issuing Completion/ Provisional Certificate;
- (vi) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;
- (vii) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
- (viii) assisting the Parties in resolution of disputes on all technical matters as per the concession agreement
- (ix) undertaking all other duties and functions as envisaged under the Agreement.

2. Review of Designs and Drawings

- (i) The Independent Engineer shall undertake a detailed review of the Designs & Drawings to be furnished by the Concessionaire along with supporting data, including, if relevant the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments in accordance with this Agreement. In particular, such comments shall specify the conformity or otherwise of such Designs & Drawings with the Project Requirements, Construction Standards and Safety Standards.
- (ii) The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments. The Independent Engineer shall take into account comments and suggestions of the Concessioneing Authority, if any while furnishing the comments.
- (iii) The Independent Engineer shall review the monthly progress reports as regards the Construction Works.

...er shall inspect the Construction Works once every month, preferably after receipt of the monthly progress report from the Concessionaire; but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "Inspection Report") setting forth an overview of the status, progress, quality and safety of construction; including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Construction Standards and Safety Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the Construction Works.

- (v) The Independent Engineer may inspect the Construction Works more than once in a month if any lapses, defects or deficiencies require such inspections.
- (vi) For determining that the Construction Works conform to Construction Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- (vii) The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- (viii) In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Construction Standards.
- (ix) In the event that the Concessionaire fails to adhere to the Project Schedule and complete the Construction Works on the specified Milestone Dates, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) Days the steps proposed to be taken to expedite progress, and the period within which the Project shall be completed. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Concessioning Authority and the Concessionaire forthwith.

- (x) If at any time during the Construction Period, the Independent Engineer determines that it is not safe to carry on Construction Works for any reason whatsoever including if the Concessionaire has not made adequate arrangements for the safety of workers or other third parties or that any work is being carried out in a manner that threatens such safety, it shall make a recommendation to the Concessioneing Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- (xi) Upon remedial measures being taken by the Concessionaire for securing the safety of suspended works, the Independent Engineer shall inspect the safety measures for adequacy and recommend whether or not such suspension may be revoked by the Concessioneing Authority.
- (xii) If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of time for completion, to which the Concessionaire is reasonably entitled, and shall notify the Concessioneing Authority and the Concessionaire of the same.
- (xiii) The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in the Appendix hereto and issue a Completion Certificate or Provisional Certificate, as the case may be, in accordance with the provisions of the Agreement.



Annexure

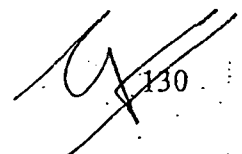
Tests

- 1) All materials to be used, all methods to be adopted and all works performed shall be strictly in accordance with the relevant IS specification for the project requirement. The relevant specification for the safety and navigational aspects shall be referred for the type of tests and frequency of tests. For this purpose, the responsibility of the Concessionaire and their Contractors will be as per the relevant provisions of this Agreement.
- 2) The Concessionaire shall carry out quality control tests on the material and works at the frequency stipulated in the respective IS codes. The tests on equipments and machinery shall be ensured while its manufacturing and subsequent installation at site. In case of absence of clear indication of the frequency and type of tests the Good Industry Practice shall be used for testing with the approval of the Independent Engineer.
- 3) The Concessionaire shall carry out all necessary tests on materials and works independently and keep their records for reference. The Concessionaire shall prepare a quality audit manual in consultation with the Independent Engineer to ensure better quality of work.
- 4) The provisions of type and frequency of test in relevant IS codes are minimum. The Concessionaire shall conduct all possible tests to ensure quality construction and installation of equipments and machinery.
- 5) The Independent Engineer at his discretion and consistent with the sound engineering practices shall carry out any non-destructive test on completed works, structures, equipments and machinery and any other component to ascertain the soundness of the work.
- 6) Schedule of test.
 - (i) the Concessionaire shall submit a detailed inventory and particulars of all works and equipment and machinery forming part of the agreement
 - (ii) The Concessionaire shall notify the Independent Engineer for its readiness for tests to be conducted
- 7) Tests.
 - (i) **Visual and physical test:** The Independent Engineer shall conduct a visual and physical check of the Port requirements to determine that all works and equipment forming part thereof conform to the provisions of the agreement.
 - (ii) **Test drive:** The Independent Engineer shall arrange for test drives of the movable equipment for the quality of service as per the relevant provisions of the IS codes for manufacture and testing of equipments and machinery
 - (iii) **Structural test :** All the equipment and machinery and structures shall be subjected to load test as the case may be for ascertaining safe working loads.
 - (iv) **Environmental Audit :** The Independent Engineer shall carry out a check to determine conformity of the Project Requirements with the environment requirement set forth in Applicable Laws and Applicable Permits.

- (v) Safety Review : Safety Audit of the Project Requirements shall have to be undertaken with the assistance of the relevant statutory authorities and determine conformity of the Project Requirements with the provisions of the Agreement.
 - (vi) The procedures for tests: The procedures as stipulated in the relevant IS specifications shall be adhered and the equipments for testing shall be arranged through the Concessionaire.
- 8) The Independent Engineer shall obtain a copy of operational and maintenance manuals of the Project Requirements from the Concessionaire and verify the contents of the manual in order to meet the following requirements.

The operation and maintenance manual shall essentially comprise of general requirement of O&M, O&M plans, replacement of maintenance parts, schedule of routine maintenance, schedule of preventive maintenance and periodic maintenance. The manual will also cover the minimum maintenance requirement to adhere to the Performance Standards as per the provisions of this Agreement. The manual shall generally cover the expected failures and time taken for repairs and maintenance.


- 9) The test procedure shall be followed as per ASTM, BIS, IS
- 10) Test shall also satisfy the appropriate Authority and certification
- (i) Dock safety Directorate
 - (ii) Environmental Authority
 - (iii) Director of Explosives
 - (iv) Fire
 - (v) Ground Water Authority
 - (vi) Customs



APPENDIX 8

PERMITS AND CLEARANCES PROCURED BY THE CONCESSIONAIRE/ CONCESSIONING AUTHORITY

Procurement of MoEF clearance for the Project will be the responsibility of the Concessioning Authority. However, the stipulations put forth by MoEF while granting the Environmental Clearance including the Environment Management Plan shall be the responsibility of the Concessionaire.

 Concessionaire is liable to obtain Applicable Permits as and when required before commencement of the construction works ~~and during the Concession Period~~. The following is list of Applicable Permits, the list of Applicable Permits is not exhaustive however, the Concessionaire will have to ascertain independently the Applicable Permits and indicate time frame for obtaining the Applicable Permits.

Activity	Authority
Environmental Clearance	Consent for Establishment (CFE) under the provisions of water (P&C) Act 1974 and Air (P&C) Act 1981 from Andhra Pradesh State Pollution Control Board.
Plot Plan approval	Dock safety Inspector / OISD guidelines.
Electrical Installations	Electrical Inspectorate, Govt. of Andhra Pradesh
Fire Safety Concerns	Chief Fire Officer, Hyderabad OISD guidelines or Applicable international codes / practices
Customs notification	Commissioner of Customs

B. The following is a list of the Applicable Permits available with the Concessioning Authority

Activity	Authority
Port Limit Notification	Ministry of Shipping
Custom Notification for Part of area proposed to be leased.	Commissioner of Customs.
Environmental Clearance	Prior Environmental clearance from MOEF, New Delhi.

APPENDIX 9

PERFORMANCE GUARANTEE (PROFORMA OF BANK GUARANTEE)⁴⁰

THIS DEED OF GUARANTEE executed on this the --- day of --- at --- by ---

----- (Name of the Bank) having its Head/Registered office at -----

----- hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns;

In favour of

THE VISAKHAPATNAM PORT TRUST, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at VISAKHAPATNAM - 530 035, ANDHRA PRADESH, INDIA (hereinafter referred to as "the Board" or "the Concessioneing Authority") which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- a) The Board, vide its Request for Proposal dated [•] ("the RFP") invited duly short listed bidders to implement a project envisaging planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks at WQ-6 berth in the northern arm of inner harbour of Visakhapatnam port by private sector participation (more particularly described in Appendix 1 and hereinafter referred to as "the Project");
- b) After evaluation of the bids received in response to the RFP, the Board accepted the bid of the consortium comprising of _____ and _____ ("the Consortium") OR the Board accepted the bid of _____ Ltd. ("the Applicant") and issued the Letter of Intent No _____ dated _____

⁴⁰ To be issued by a Scheduled Bank in India.

_____ ("LOI") to the Consortium/Applicant requiring, inter alia, the execution of the Concession Agreement, ("the Concession Agreement") the draft whereof was provided in the RFP;


- c) Pursuant to the LOI the Applicant/Consortium has promoted and incorporated a special purpose company _____ ("the Concessionaire"), to enter into the Concession Agreement for undertaking, inter alia, the work with respect to the Project referred to in Recital (a) above and to perform and discharge all its

obligations thereunder.

- d) In terms of the LOI and the Concession Agreement, the Concessionaire is required to furnish to the Board, a Performance Guarantee being an unconditional and irrevocable Bank Guarantee from a Scheduled Bank for a sum of Rs. 57.25 million (Rupees fifty seven decimal two five million only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement during the Construction Phase,
- e) At the request of the Concessionaire, and for valid consideration the Guarantor has agreed to provide guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations under the Concession Agreement during the Construction Phase.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalized terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.
2. The Guarantor hereby irrevocably and unconditionally guarantees the due execution and punctual performance by M/s. _____ ("the Concessionaire") of all its obligations under the Concession Agreement during the Construction Phase.
3. The Guarantor shall, without demur or protest, pay to the Board sums not exceeding in aggregate Rs. 57.25 million (Rupees fifty seven decimal two five only) within five (5) calendar Days of receipt of a written demand therefor from the Board stating that the Concessionaire has failed to meet its performance obligations under the Concession Agreement during the Construction Phase. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by the Board and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person before any court, tribunal, expert, arbitrator or similar proceedings. The Guarantor's obligations hereunder shall subsist until all such demands of the Board are duly met and discharged in accordance with the provisions hereof. Any such demand made on the Guarantor by the Board shall be conclusive, absolute and unequivocal as regards the amount due and payable by the Guarantor under this Agreement. The Concessioneing Authority shall at all times at its sole discretion have the absolute and unconditional right to call upon the Guarantor to pay the amount under the Guarantee.
4. In order to give effect to this Guarantee, the Board shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted by the Board or postponement/non exercise/ delayed exercise of any of its rights by the Board or any indulgence shown by the Board to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee

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on account of any such variation, extension, postponement, non exercise or delayed exercise by the Board of any of the Board's rights or any indulgence shown by the Board; provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.

5. This Guarantee shall be unconditional and irrevocable and shall remain in full force and effect until Scheduled Project Completion Date and for a period of twelve months thereafter unless discharged/released earlier by the Board in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate shall be limited to a sum of Rs. 57.25 million (Rupees fifty seven decimal two five only).
6. This Guarantee shall not be affected by any change in the constitution or winding up, insolvency, bankruptcy, dissolution or liquidation of the Concessionaire/ the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.
7. Any payment made hereunder shall be made free and clear of, and without deduction for or on account of taxes, levies, imposts, duties, charges, fees, deductions, or withholding of any nature whatsoever.
8. The Guarantor hereby irrevocably and unconditionally undertakes, agrees and acknowledges that its obligations as a Guarantor hereunder:
 - a. shall not be affected by the existence of or release or variation of any other guarantee or security for any of the obligations of the Concessionaire under the Concession Agreement;
 - b. shall not be affected by any failure by the Concessioneing Authority to perform any of its obligations under the Agreement;
 - c. shall not be affected by any failure or delay in payment of any fee or other amount payable to the Guarantor in respect hereof;
 - d. shall not be affected by any exercise or non-exercise of any right, remedy, power or privilege of any person under or in respect of any payment obligations of the Concessionaire under the Concession Agreement;
 - e. shall not be affected by any failure, omission or delay on the Concessioneing Authority's part to enforce, assert or to exercise any right, power or remedy conferred on the Concessioneing Authority in this Guarantee;



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- f. shall not be affected by any act, omission, matter or thing which, but for this clause would reduce, release or prejudice the Guarantor from any of the obligations under this Guarantee or prejudice or diminish the obligations in whole or in part.
9. The obligations, covenants, agreements and duties herein shall not be subject to any counterclaims, cross claims, set offs, deductions, withholdings, diminutions, abatements, recoupments, suspensions, deferments, reductions or defence for any reason whatsoever and the Guarantor, shall have no right to terminate this Guarantee or to be released, relieved or discharged from any of its obligations, covenants, agreements and duties hereunder for any reason whatsoever.
10. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.
11. This Guarantee shall be governed by and construed in accordance with the laws of India. The Guarantor hereby irrevocably submits to the exclusive jurisdiction of the Court of Visakhapatnam for the purposes of any suit, action, or other proceeding arising out of this Guarantee, or the subject matter hereof, brought by the Concessioning Authority or its successors or assigns. To the extent permitted by Applicable Law, the Guarantor or its successors or assigns hereby waive, and shall not assert, by way of motion, as defence, or otherwise, in any such suit, action, or proceeding any claim that such suit, action, or proceedings is brought in an inconvenient forum, or that the value of such suit, action, or proceeding is improper, or that the subject matter hereof may not be enforced in or by such court.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS
HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE
WRITTEN
SIGNED AND DELIVERED by

_____ Bank by the hand of Shri _____ its
_____ and authorized official.



APPENDIX 10
CERTIFICATES COMPLETION CERTIFICATE

1. I, [•] (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Agreement dated [•], for planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks at WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port by private sector participation Project on Design, build, Finance, operate and transfer (DBFOT) basis, through [(Name of Concessionaire)], hereby certify that the Tests specified in Article [•] and Schedule-[•] of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and I am satisfied that the Project can be safely and reliably placed in commercial service of the users thereof.
2. It is certified that, in terms of the aforesaid Agreement, all works forming part of the Project have been completed, and the Project is hereby declared fit for entry into commercial operation on this the [•] day of [•] 20[•].

SIGNED, SEALED AND DELIVERED For and on behalf of
the INDEPENDENT ENGINEER by:

(Signature)

(Name)

(Designation)

(Address)



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PROVISIONAL CERTIFICATE

1. I, [[•] (Name of the Independent Engineer)], acting as Independent Engineer, under and in accordance with the Agreement dated [•], for planning, designing, engineering, installation, finance, operation & maintenance of Mechanical Facilities for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks at WQ-6 berth in the northern arm of inner harbour of Visakhapatnam Port by private sector participation Project on Design, build, Finance, operate and transfer (DBFOT) basis through [• (Name of Concessionaire)], hereby certify that the Tests specified in Article [•] and Schedule-[•] of the Agreement have been undertaken to determine compliance of the Project with the provisions of the Agreement.
2. Construction Works that were found to be incomplete and/or deficient have been specified in the Punch List appended to the Provisional Certificate, and the Concessionaire has agreed and accepted that it shall complete and/or rectify all such works in the time and manner set forth in the Agreement. Some of the incomplete works have been delayed as a result of reasons attributable to the Concessioning Authority or due to Force Majeure and the Provisional Certificate cannot be withheld on this account. Though the remaining incomplete works have been delayed as a result of reasons attributable to the Concessionaire, I am satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project, pending completion thereof.
3. In view of the foregoing, I am satisfied that the Project can be safely and reliably placed in commercial service of the users thereof, and in terms of the Agreement, the Project is hereby provisionally declared fit for entry into commercial operation on this the [•] day of [•] 20[•].

ACCEPTED, SIGNED, SEALED AND
DELIVERED For and on behalf of
CONCESSIONAIRE by:

(Signature)

(Name and Designation)

(Address)



SIGNED, SEALED AND
DELIVERED
For and on behalf of
INDEPENDENT ENGINEER by:

(Signature)

(Name and Designation)

(Address)



APPENDIX 11

PERSONNEL AND LABOUR REQUIREMENTS

The Project does not envisage taking over of any personnel / labour from the Authority



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APPENDIX 12

TARIFFS

The Concessionaire may charge fees for the Project Facilities and Services provided in accordance with the Tariff Notification no. 26 dated 24.02.2009 published by TAMP and updated as per indexation on WPI communicated by TAMP vide letter dated 31.03.2009. As a ready reference, the relevant extract of the Tariff Notification is as under:

1. BERTH HIRE CHARGES:

Sl. No.	Vessels	Rate per GRT per hour or part thereof	
		Foreign Going Vessel (in Rs.)	Coastal Vessel (in Rs.)
1	Vessels carrying CP Coke, LAM Coke, Steel and Granite Blocks	0.81	0.49

2. BULK CARGO HANDLING CHARGES:

Sl. No.	Commodity	Unit	Rate in Rupees	
			Foreign	Coastal
(a)	C.P. COKE	Per Metric Tonne	82.79	49.67
(b)	LAM COKE	Per Metric Tonne	82.79	49.67
(c)	STEEL	Per Metric Tonne	213.35	128.03
(d)	GRANITE BLOCKS	Per Metric Tonne	329.62	197.77

3. STORAGE CHARGES:

Description	Rate in Rs. per tonne per day
First week after expiry of free period	9.07
2 nd week after expiry of free period	13.61
Beyond 2 nd week	18.14

The aforesaid Tariff caps shall be revised every year based on a variation in the Wholesale Price Index ("WPI"). Such revision shall be based on indexation against 60% (sixty percent) of the variation in the WPI for a relevant year beginning 1st January and ending 31st December.

APPENDIX 13

RATES APPLICABLE IN RESPECT OF LAND, UTILITIES AND SERVICES

~~(Scale of Rates)~~

YLE

1. For Land: Schedule of Rates.

2. For Utilities and services: Scale of Rates.



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APPENDIX 14

MINIMUM GUARANTEED CARGO

The minimum guaranteed cargo will be as follows for the project.

Year	Minimum guaranteed cargo	
1 to 3 years	25% of 2.08 M.T.	0.52 M.T.
3 to 5 years	40% of 2.08 M.T.	0.83 M.T.
Beyond 5 years	60% of 2.08 M.T.	1.25 M.T.

APPENDIX 15

PERFORMANCE STANDARDS

Performance Standards

1. Gross Berth Output

The parameter deals with the productivity of the terminal (Gross Berth Output) for different types of cargo. In case of dry and break-bulk cargo, the capability of the terminal (mechanization, method of handling) and parcel size will determine the Gross Berth Output. Higher terminal capability and greater parcel size will lead to high productivity.

The Gross Berth Output shall be calculated as the total cargo handled (either loaded/unloaded) from the ship during a month divided by the time spent by the ship at the terminal i.e number of working days at the berth.

The indicative norms for Gross Berth Output for different categories of cargo are as follows:

Cargo Category	Indicative Norms
DRY BULK:	
1. C.P.COKE	10,000 tonnes per day
2. LAM COKE	10,000 tonnes per day
3. STEEL	4,000 tonnes per day
4. GRANITE BLOCKS	2,500 tonnes per day

Weightage in case of a shortfall in meeting the prescribed performance standard - [•]

2. Transit Storage Dwell Time:

(b) Bulk Cargo

The Transit Storage Dwell Time for coal/coke/mixed dry bulk cargo/liquid cargo shall be calculated, as half of average parcel size of above cargo vessels in a month divided by average disposal of cargo from the port per day as per the following methodology:

$$\text{Average disposal of Cargo per day (A)} = \frac{\text{OB} + \text{Received/Despatched} - \text{CB}}{\text{No. of days}}$$

OB = Opening Balance, CB = Closing Balance.

$$\text{Average Parcel Sizes (B)} = \frac{P1 + P2 + \dots + Pn}{n(\text{no. of parcels})}$$




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P1,P2Pn are parcel size of each vessel in a month. Transit Storage Time for Bulk Cargo = 0.5 (B/A)

(c) Break-bulk cargo:

The Transit Storage Dwell Time of Break Bulk cargo shall be calculated in the same manner as calculated for container in the terminal. The Transit Storage Dwell Time for Break Bulk Cargo is the sum of time of each unit of cargo that remains in the Port in a month divided by the number of cargo units handled during that month in the terminal. To further clarify, the time the break bulk cargo remains in the port will commence from the date and time of landing till the date and time of exit from the Port in case of import and for export from the date and time the cargo entered the Port area till the date and time of the shipment.

Transit Storage Dwell Time

As per Tariff Notification No. 26 dated 24.02.2009 published by TAMP the following are the Dwell Time for the Dry bulk cargo:

Import: 5 days

Export: 15 days

3. Turn around Time for receipt/delivery operation:

The Turn around Time for receipt/delivery operation shall be the sum of time taken for loading/unloading of cargo divided by the number of trucks/trailers/rakes deployed, as the case may be, in a month. Further, in case the truck/trailer/rake does both unloading and loading operations on a single entry into the terminal, the time allocated shall be doubled for those trucks/trailers/rakes.

- | | |
|--|----------|
| a. (i) Truck for conventional cargo(Single operation) | 4 Hours |
| (ii) Truck for conventional cargo (Double operation) | 8 Hours |
| b. (i) Rake for dry bulk cargo (Single operation) | 10 Hours |
| (ii) Rake for dry bulk cargo(Double operation) | 18 Hours |




Weightage in case of a shortfall in meeting the prescribed performance standard - [•]

Performance Evaluation and calculation of liquidated damages:

Performance evaluation shall be made on a quarterly review of the reports furnished by the Concessionaire and/or the records of the Concessionaire and/or by an enquiry by the Concessioning Authority. The Concessionaire shall be liable to pay liquidated damages determined at the rate of 1% (one per cent) of the Gross Revenue of the respective quarter for every shortfall of 10% (ten per cent) in the average performance which shall be assessed in the following manner.

Each Performance Standard is calculated as an average in the manner indicated above. The actual average performance vis-à-vis a standard will be evaluated against the prescribed standard. The shortfall will be computed as a percentage of the prescribed standard. The shortfall in respect of each performance standard will have a weightage assigned to it. The overall shortfall in average performance shall be assessed as the aggregate of the weighted shortfalls in respect of each of the performance standards. For example, if there is a shortfall in Gross Berth Output by $x\%$, Transit Storage Dwell Time by $y\%$ and Turn round time for receipt/delivery operations by $z\%$ and the weightage assigned to such shortfalls is 0.7, 0.2 and 0.1 respectively, then the overall shortfall in average performance will be $(0.7x + 0.2y + 0.1z)\%$.



APPENDIX 16

ESCROW AGREEMENT

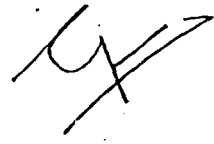
THIS ESCROW AGREEMENT is entered into on this the [•] day of [•] 20[•].

AMONGST

1. [• LIMITED], a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at [•] (hereinafter referred to as the "Concessionaire" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
2. [• (name and particulars of Lenders' Representative)] and having its registered office at [•] acting for and on behalf of the Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);
3. [• (name and particulars of the Escrow Bank)] and having its registered office at [•] (hereinafter referred to as the "Escrow Bank" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
4. BOARD OF TRUSTEES for VISAKHAPATNAM PORT, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at VISAKHAPATNAM - 530 035 hereinafter referred to as "the Concessioning Authority" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

WHEREAS:

- (A) The Concessioning Authority has entered into a Concession Agreement dated [•] with the Concessionaire (the "Concession Agreement") for undertaking the Project (as defined in the Concession Agreement) on design, build, finance, operate and transfer (DBFOT) basis. The Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Documents.
- (B) The Concession Agreement requires the Concessionaire to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein. NOW IT IS HEREBY AGREED as follows:



1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Agreement" means this Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

"Budget" means the budget for construction/implementation expenses relating to the Project/Project Facilities and Services and O&M Expenses submitted by the Concessionaire in accordance with the provisions contained herein;

"Concession Agreement" means the Concession Agreement referred to in Recital (A) above and shall include any amendments made thereto in accordance with the provisions contained in this behalf therein;

"Escrow Account" means an escrow account established in terms of and under this Agreement, and shall include any sub accounts thereof;

"Escrow Default" shall have the meaning ascribed thereto in Clause 6.1;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;

"Payment Date" means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

"Quarter" means, any three month period from 1st April to 30th June, 1st July to 30th September, 1st October to 31st December or 1st January to 31st March.

1.2 Interpretation

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Lenders.

1.2.2 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.3 References to Articles are, unless stated otherwise, references to Articles of this Agreement.

1.2.4 The rules of interpretation stated in Articles 1.3, 1.4 and 1.5 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Concessionaire hereby settles in trust with the Escrow Bank a sum of Rs. 100 (Rupees Hundred Only) appoints the Escrow Bank to act as trustee for the Concessions Authority, the Lenders, the Lenders' Representative and the Concessionaire in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Concessions Authority, the Lenders, the Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Concessions Authority, the Lenders/Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of, or as third party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Lenders or the Concessions Authority with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Concessions Authority, the Lenders' Representative and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within 30 (thirty) Days from the date of this Agreement, and in any case prior to the Date of Award of Concession, the Concessionaire shall open and establish the Escrow Account with the [(name of Branch)] Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and

pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Concessionaire shall submit to the Escrow Bank a Budget within 7 (seven) Days of the commencement of each Financial Year. Till the pendency of the financing Documents, such Budget shall be approved by the Lenders/Lenders Representative and thereafter by the Concessioneing Authority.

2.3.4 The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the operating and maintaining expenses and shall be appropriated from the Escrow Account in accordance with Article 4.1.1 (c).

2.5 Rights of the parties

The rights of the Concessioneing Authority, the Lenders (through the Lenders' Representative) and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Concessioneing Authority, the Lenders' and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Concessionaire

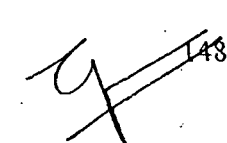
The Parties hereto acknowledge and agree that upon substitution of the Concessionaire with the Selectee, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Selectee is a Party hereto and the Selectee shall accordingly be deemed to have succeeded to the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Selectee.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

The Concessionaire agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:

- (a) all monies received in relation to the Project from any source, including the Lenders;
- (b) all funds received by the Concessionaire from its share-holders, in any manner or form;



- (c) all Fee levied and collected by the Concessionaire;
- (d) any other revenues from or in respect of the Project/Project Facilities and Services accruing to the Concessionaire including termination payments; and
- (e) all proceeds received pursuant to any insurance claims.

For avoidance of doubt, all amounts received by the Concessionaire in respect of the Project/Project Facilities and Services excepting any amounts in respect of cesses and duties collected by it from the users on behalf of the Concessioneing Authority or such other authority in accordance with the Concessione Agreement or pursuant to any other instructions in respect thereof shall be deposited in the Escrow Account.

4. WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments in a month :

- (a) all taxes due and payable by the Concessionaire;
- (b) towards License Fee;
- (c) all construction/implementation expenses relating to the Project/Project Facilities and Services, in accordance with the Budget and subject to limits if any set out under the Financing Documents;
- (d) all expenses relating to operations and management of the Project/Project Facilities and Services, in accordance with the Budget and subject to limits if any set out under the Financing Documents;
- (e) towards its debt service obligations under the Financing Documents;
- (f) towards Royalty and other sums payable to the Concessioneing Authority and liquidated damages, if any;
- (g) towards any reserve requirements in accordance with the Financing Documents;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the escrow account after all the aforesaid payments due in any Quarter have been made and/or adequate reserves have been created in respect thereof for that Quarter.

- 4.1.2 Not later than 60 (sixty) Days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Article 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon end of Concession Period

All amounts standing to the credit of the Escrow Account at the end of the Concession Period including amounts credited to the Escrow Account towards compensation payable in accordance with Article 17 of the Concession Agreement shall be appropriated in the following order of priority:

- (i) towards taxes and statutory dues payable by the Concessionaire;
- (ii) compensation to Lenders in terms of the Financing Documents towards discharge of the Concessionaire's liability under such Financing Documents;
- (iii) all amounts due to the Concessioning Authority and amounts payable towards transfer of the Project Facilities and Services by the Concessionaire in accordance with this Agreement;

and the Concessionaire shall be at liberty to withdraw any sums outstanding in the Escrow Account after all the aforesaid payments due have been made and/or adequate reserves have been created in respect thereof to the satisfaction of the Lenders and the Concessioning Authority and the Escrow Agent has received a confirmation of final settlement by the Lenders and/or Concessioning Authority.

4.3 Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilised for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project/Project facilities and Services, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Documents.



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4.4 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, in case the Escrow Bank receives a notice in writing from the Concession Authority that the rights of the Concessionaire are suspended in accordance with the Concession Agreement or a Termination Notice is issued, the Escrow Bank shall until such notice is withdrawn, act only on the instructions of the Concessioning Authority.

5. OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of balances

7 (seven) business Days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account as at the close of business on the immediately preceding business day.

5.3 Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

- (a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Concessionaire upon a certificate signed by or on behalf of the Concessionaire;
- (b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;
- (c) shall, within 5 (five) business Days after receipt, deliver a copy to the Lenders' Representative of any notice or document received by it in its capacity as the Escrow Bank from the Concessionaire or any other person hereunder or in connection herewith; and
- (d) shall, within 5 (five) business Days after receipt, deliver a copy to the Concessionaire of any notice or document received by it from the Lenders' Representative in connection herewith.

5.4 No set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

5.5 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

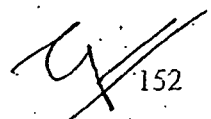
6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Concessionaire (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Concessioneing Authority or the Lenders' Representative:

- (a) the Concessionaire commits breach of this Agreement by failing to deposit /cause the deposit of any receipts into the Escrow Account;
- (b) the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement; or
- (c) the Concessionaire commits or causes any other breach of the provisions of this Agreement.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.


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7. TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or financial assistance received by it from the Lenders, or any of its obligations to the Concessioneing Authority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty five) Days prior notice to the Escrow Bank, the Concessioneing Authority and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank. The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire and the Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement and the Financing Documents including the payments specified in Article 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and pay any amount standing to the credit thereof to the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8. SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Escrow Account, creation of sub-accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Lenders, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of Financing Documents, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

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9. INDEMNITY

9.1 General indemnity

9.1.1 The Concessionaire will indemnify, defend and hold the Concessioneing Authority, Escrow Bank and the Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

9.1.2 The Concessioneing Authority will indemnify, defend and hold the, Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Concessioneing Authority to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Concessioneing Authority, its officers, servants and agents.

9.1.3 The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) Days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

10. MISCELLANEOUS PROVISIONS

10.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at VISAKHAPATNAM shall have jurisdiction over all matters arising out of or relating to this Agreement.

10.2 Waiver of sovereign immunity

The Concessioneing Authority unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement shall constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Concessioneing Authority with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

10.3 Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

10.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.



10.5 Waiver

10.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (b) shall not affect the validity or enforceability of this Agreement in any manner.

10.5.2 Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

10.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

10.7 Survival

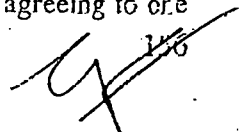
10.7.1 Termination of this Agreement:

- (a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

10.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

10.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to cre



or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 10.1 of this Agreement or otherwise.

10.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

10.10 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term or related or breach of any term of this Agreement shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

The Concessioneing Authority:

CHAIRMAN
VISAKHAPATNAM PORT
VISAKHAPATNAM

Fax No: _____

Email: _____

The Concessionaire:

The MANAGING DIRECTOR

_____-Ltd

Fax No. _____

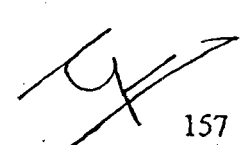
Email: _____

The Lenders/Lenders representative:

_____-Ltd

Fax No. _____

Email: _____



_____ Ltd

Email: _____

10.11 Language

10.12 Authorised representatives

10.13 Original Document

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED
THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

For and on behalf of CONCESSIONAIRE by:

(Address)

[Handwritten signature]

4158

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of LENDERS by the Lenders' Representative:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of ESCROW BANK by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of Concessioning Authority by:

(Signature)

(Name)

(Designation)

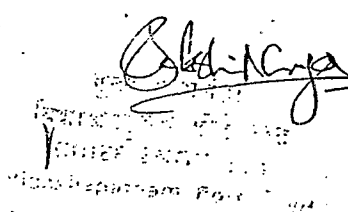
(Address)

(Fax No.)

In the presence of:

1.

2.



*Copies of RFP, Feasibility Report and Correspondences
initialed on each page towards acceptance in toto*



LETTER No. 8

DATE 30.11.09

విశాఖపట్టణం పోర్ట్ ట్రస్ట్ / ఇంజనీరింగ్ విభాగం
VISAKHAPATNAM PORT TRUST / ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pt. IX

Dt. 26-11-2009.

326

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
Mumbai 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner

Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,

Operate and Transfer (DBFOT) basis - Reg.

Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject project work was issued to you.

Please find enclosed here with a copy of Corrigendum 6 to RFP document of the subject project regarding bid due date & opening of bids.

Encl: Copy of Corrigendum - 6

Yours faithfully,

CHIEF ENGINEER 26/11/09

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

549

ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ.

Dt. 26-

CORRIGENDUM - 6

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on 'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VIII Dt. 23-10-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of Introduction of RFP document are modified as indicated below:

	Event Description	Existing date	Modified date
5	Bid Due Date	10-11-2009 Up to 11.00 AM	4-12-2009 up to 11.00 AM
6	Opening of Bids	10-11-2009 After 11.30 AM	4-12-2009 after 11.30 AM


CHIEF ENGINEER 26/11

Enclosed herewith is a copy of Corrigendum 6 to RFP document of the subject project regarding bid due date & opening of bids.

Encl: Copy of Corrigendum - 6

Yours faithfully,


CHIEF ENGINEER 26/11

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ-6 Pt. VIII
Dt. 27-10-2009.

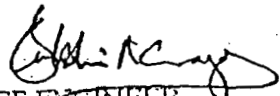
CORRIGENDUM - 5

Subj: Development of Western Quay - 6 (WQ-6) berth in the Northern Arm of
inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on
"DBFO" basis - Reg

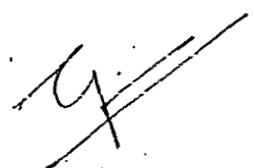
Ref: This office letter No. IENG/EE(Projects)/WQ-6 Pt. VIII Dt. 23-10-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against
serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of Introduction of RFP document
are modified as indicated below:

	Event Description	Existing date	Modified date
5	Bid Due Date	4-11-2009 Up to 11.00 AM	10-11-2009 up to 11.00 AM
6	Opening of Bids	4-11-2009 After 11.30 AM	10-11-2009 after 11.30 AM


CHIEF ENGINEER 27/10/09





विशाखपट्टणम पोर्ट ट्रस्ट / अगिर्वता विभाग
VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pt. VIII/279
Dt. 27-10-2009.

M/s. ABG Infralogistics Ltd.,
5TH Floor, Eshupati Chambers,
13, Mathew Road,
MUMBAI 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Lr Dt. 17-8-09.

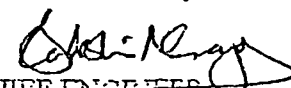
Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 5 to RFP document
of the subject project

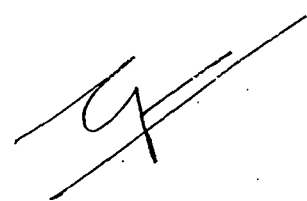
Encl: Copy of Corrigendum - 5

Yours faithfully,


CHIEF ENGINEER 27/10

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com



555

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG EE(Projects) WQ-6 Pt. VII
Dt. 27-10-2009.

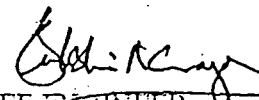
CORREENDUM - 5

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on 'DBFO' basis - Reg

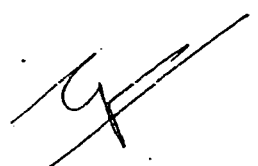
Ref: This office letter No. IENG EE(Projects) WQ-6 Pt. VII Dt. 23-10-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of introduction of RFP document are modified as indicated below:

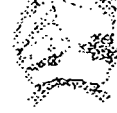
	Event Description	Existing date	Modified date
5	Bid Due Date	4-11-2009 Up to 11.00 AM	10-11-2009 up to 11.00 AM
6	Opening of Bids	4-11-2009 After 11.30 AM	10-11-2009 after 11.30 AM


CHIEF ENGINEER 27/10/09





विशाखापट्टणम पोर्ट ट्रस्ट / अभियंता विभाग
VISAKHAPATHNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pt. VIII /27/
Dt. 23 -10 - 2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
MUMBAI 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, Finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 4 to RFP document of the subject project.

Encl: Copy of Corrigendum - 4

Yours faithfully,


CHIEF ENGINEER
23/10

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ -6/Pt. VIII
Dt. 23-10-2009.

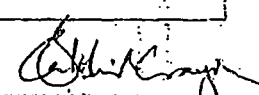
CORRIGENDUM - 4

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on
'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VIII/213 Dt.30-9-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against
serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of Introduction of RFP document
are modified as indicated below:

	Event Description	Existing date	Modified date
5	Bid Due Date	30-10-2009 Up to 11.00 AM	4-11-2009 up to 11.00 AM
6	Opening of Bids	30-10-2009 After 11.30 AM	4-11-2009 after 11.30 AM


CHIEF ENGINEER 23/10/09

OM : UPT

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विशाखपट्टणम पोर्ट ट्रस्ट / अभियंता विभाग
VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. ENG/IE(PROJECTS)/WQ 6P. VII /279
Dt. 27-10-2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
MUMBAI 400 004.

✓ FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

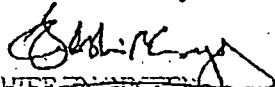
Please refer to your letter cited.


As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 5 to RFP document
of the subject project.

Encl: Copy of Corrigendum - 5

Yours faithfully,


CHIEF ENGINEER 27/10/09


Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

563

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UPT

FAX NO. : 0

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ-6/Pt. VIII
Dt. 27-10-2009.

CORRIGENDUM - 5

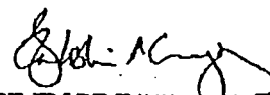
Sub: Development of Western Quay - 6 (WQ-6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on
'DBFO' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VIII Dt. 23-10-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against
serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of Introduction of RFP document
are modified as indicated below:

	Event Description	Existing date	Modified date
5	Bid Due Date	4-11-2009 Up to 11.00 AM	10-11-2009 up to 11 00 AM
6	Opening of Bids	4-11-2009 After 11.30 AM	10-11-2009 after 11.30 AM




Y CHIEF ENGINEER 27/10/09



विशाखापट्टणम पोर्ट ट्रस्ट / अभियंता विभाग
VISAKHAPATHAM PORT TRUST/ENGINEERING DEPARTMENT

ISO 9001 PORT
ISO 14000 PORT
CHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pl. VIII /262
Dt. 19-10-2009.
20

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers, 13, Mathew Road,
Mumbai 400 004.

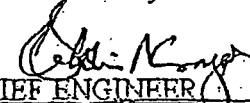
FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please find enclosed herewith the statement showing the queries raised by the short-listed
firms and VPT remarks thereon in connection with the subject project for information and
necessary action. (The same was already emailed on 17-10-09)

Yours faithfully


CHIEF ENGINEER
19/10/09

Encl: Statement each along with enclosures.

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.co

Development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port on Design, Build, Finance, Operate and Transfer (DBFOT) basis.


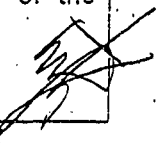
Replies to Queries raised by the Bidders.

A.

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
1				<p>(A) Geotechnical</p> <p>1. Kindly provide us the location plan drawing of the bore logs included in the feasibility report.</p> <p>2. Please provide if any sub-soil data available for the 12.2 acre designated stacking area for wq-6. What is the typical soil profile at the proposed cargo storage area? Please provide sub-soil investigation report for this storage area can be made available.</p> <p>3. Please provide further detailed soil investigation data (including laboratory test results) can be made available.</p>	<p>1. Plan showing borehole location included in TEFR is enclosed.</p> <p>2. Bore log data of the stacking area not available with VPT.</p> <p>3. The soil test results of the soil holes conducted at berth location are enclosed in Annexure- 1 [This information is for reference purpose only and it is clarified here that the Bidder has to undertake the site survey themselves for ascertaining the conditions for development of the Project]</p>
2				<p>(B) CONSTRUCTION OF BERTH</p> <p>4. ----- berth length is 255m. As per the technological feasibility report, the vessel LOA considered is 195m and 32.2 m beam or 80,000 DWT? Please make clear.</p> <p>5. It is also indicated in chapter 7 project descriptions that up to 205 m vessel can be accommodated subject to certain limitations.</p> <p>6. How the diaphragm wall will be constructed. Please explain construction methodology of the diaphragm wall if any available with port trust.</p> <p>7. Can bidder free to adopt the own configuration of the berth other than explained in feasibility study? Please clarify.</p>	<p>4. The proposed total berth length of 255m is 255m which includes the existing berth length constructed with steel pile wall type of construction to be dismantled and constructed afresh.</p> <p>5. Vessels up to a maximum LOA of 205 Mtrs. Can be handled at proposed V berth. However, vessels beyond 195m can be handled only when there are small vessels or no vessels at adjacent berths i.e., WQ-5 & WQ-7.</p> <p>6. Method of construction shall be as per standard applicable to marine structures.</p> <p>7. Subject to the approval of Concessioning Authority. It may be that there will be no revision in Tariff benefit of this [and Subject to complying specified technical and performance standards.]</p>

3			<p>(C) Material Handling system</p> <p>8. Can bidder make his own lay out and system design within the battery limit of allocated land?</p> <p>9. In case any additional land or ROW is required , can port authority permit for the same ?</p> <p>10. To do the basic engineering and preparation of layout drawing , Auto CAD copy of allocated land with clear demarcation of all temporary and permanent structures with in that area is required. in that area is required. Request to provide the soft copy of drawing in auto CAD format including existing and proposed development.</p> <p>11. Please share any further detailing for the material handling system designed by the port authority over and above supplied along with the RFE document.</p> <p>12. Please clarify, whether the bidder is permitted to change system parameters & equipment capacity.</p> <p>13. Please clarify, whether fire fighting system to be provided for berth and back up yard? Please specify the norms to be followed for the same.</p> <p>14. Can bidder has choice to select the jetty unloading crane (type and capacity), as per their detailed training?</p> <p>15. Is there any requirement from port authority for handling capacity of system in terms of per day committed unloading rates?</p>	<p>8. Subject to the approval of Concessioning Authority and compliance with performance standards specified. It may be noted that there will be no revision in Tariff because of this.</p> <p>9. Provisions made in DCA holds good.</p> <p>10. A copy of the Auto CAD drawing is enclosed (Annexure-2) showing the details as requested.</p> <p>11. Provisions made in DCA holds good.</p> <p>12. Subject to the approval of Concessioning Authority and compliance with performance standards specified. It may be noted that there will be no revision in Tariff because of this.</p> <p>13. Provisions made in DCA holds good</p> <p>14. Please refer reply at item no. 12 above.</p> <p>15. Average handling capacity per day mentioned as per Appendix-15 of DCA</p>
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4		<p>(D) Civil Works in the Back-up yard</p> <p>16. For any building "Tsunami" force condition to be reviewed?</p> <p>17. 3nos. of 30M. high mast provision is observed. Please confirm.</p> <p>18. Please provide Auto CAD drawing of plant layout in global co-ordinate system.</p> <p>19. Fire Fighting system is not mentioned. Please provide the detail requirements.</p>	<p>16. Provisions in the DCA document holds good. Please refer to relevant clauses of DCA on the requirements.</p> <p>17. 3nos of 30M. high mast identify illumination for backup area behind the berth</p> <p>18. AUTO CADD drawing as available enclosed. Global co-ordinate system drawings not available with VPT</p> <p>19. As per the provisions mentioned in Appendix-4, 6 and 8 of DCA</p>
5		<p>(E) Road engineering</p> <p>20. As per the feasibility report, 2-lane road facility is already there along the periphery of wq-6 and further road is not required. Pl. Clarify following.</p> <p>a. The condition of existing road i.e. whether it is capable to bear additional traffic load through the period.</p> <p>b. The existing width of the road.</p> <p>c. The cross section of road including drainage arrangement.</p> <p>21. Please provide details of existing road network (including crust details) along with Auto CAD drawing. Please provide details if there is any specific utility requirement along the road and any particular utility crossing location across the road.</p> <p>22. Please clarify requirement of security gate etc along with location details.</p> <p>23. Please provide detailed requirement of parking space including location marked on Auto Cad drawing, also capacity to be provided.</p>	<p>20. a. Yes b & c. Please refer TEFR [This information is for reference purpose only and it is clarified here that the Bidder to undertake the site survey by themselves ascertaining the cost of development of Project]</p> <p>21. Plan showing road connectivity relevant to the project is enclosed (Annexure-3)</p> <p>22. Security gates as required shall be planned and provided by Concessionaire suitable to project.</p> <p>23. Concessionaire shall plan their parking space within the area allocated for this project.</p>

			<p>(G) Water Supply</p> <p>24. Clause 2.15 of techno economical feasibility report indicates the water requirement of the existing port is being met partially from the GVMC and port's own resources. The water required for the port will be made available from GVMC or from port's own resource, the same may be clarified. The pressure at the delivery point and charges for the same may also be provided.</p>	<p>24. Refer clause 7.2(b) of DCA. Charges for water supplied shall be as per Annexure-4. However, the charges / rates are subject to revision from time to time.</p> 
8			<p>(H) Sewerage System</p> <p>25. Please provide location of sewage treatment plant for disposal of sewage using browser. Is septic tank with soak pit allowed for buildings ?</p> <p>26. Please provide details of existing water supply , sewerage and storm water drainage system along with the drawing in Auto-CAD format.</p> <p>(I) Strom. Water Drainage</p> <p>27. Corridor for disposal of storm water beyond the backup yard boundary up to the disposal point at sea/ common drain , if any may please be provided.</p>	<p>25. Septic tank with soak pit allowed for buildings as per standards</p> <p>26 Plan showing the details to the extent related to the project is enclosed vide TEFR and any extra information shall be assessed by the successful bidder through necessary surveys. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p> <p>27. Plan showing the details to the extent related to the project is enclosed vide TEFR and any extra information shall be assessed by the successful bidder through necessary surveys.</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p> 



9

(J) Electrical

28. After studying feasibility report, under head 2.14, the port draws its entire requirement of power from the Andhra Pradesh State Electric Board (APSEB) through the 132 KV sub-station. Kindly confirm the following :

a. Whether proposed port of Visakhapatnam (WQ-6) will have power from same 132KV s/s

b. Also provide , the distance of 132 KV S/S from proposed (WQ-6) port of Visakhapatnam , please provide Auto CAD drawing of proposed port with general arrangement of mechanical requirements.

c. Also , kindly provide electrical load (in KW) of all the mechanical equipments.

28.a)(i) The power available KV Substation is sufficient to cater the need of port and the bidder has to obtain supply directly from AP Tran

(ii) However, 33KV Power supply of AP Transco is available distance of about 100 mtrs from berth from where the power is tapped.

b) Since the power supply can be extended from 132 KV Substation VPT, this Point is not applicable (AUTO CADD drawing)

c) The mechanical equipment recommended for this project is diesel driven and the question of electrical power does not arise. However, the electrical load for lighting and other miscellaneous works will be 100 KW approximately [This information is for reference purposes only and it is clarified here that the Bidder to undertake the site survey by themselves ascertaining the cost of development Project]

(M) General Points

29. Please specify that which statutory clearance will be made available by the authority and which are in the scope of bidder?

30. Please provide details of any hydraulic modelling studies conducted by the port authority in the port area.

31. Please provide tide, wave and current studies already available with the port authority in context with western quay -6 and outer harbour.

29. As per Appendix- 8 of MCA.

30. No hydraulic model studies conducted.

31. please refer relevant information provided in TEFR vide Chapter Site information. No separate studies are available.

				<p>32. Duration of the project envisaged 24 month, does not seems to be practical/ possible because of :</p> <ul style="list-style-type: none"> a. Consolidation of the yard area. b. Time requirement for engineering. c. Demolition of structure in area. <p>This may be extended to 36 months as 9 months would leave in engineering. Only 15 months will remain for the construction which seems to be difficult to achieve.</p>	<p>32. Please refer to Appendix-1 of DCA with respect to the details requested.</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
11	-	-	-	<p>(N) Conditions Precedent (Clause 3.1)</p> <p>33. The time frame of 90 days from date of Agreement for compliance of conditions Precedent is too short and should be increased reasonably.</p> <p>34. We will need and strongly suggest- a period of minimum 180 (one hundred & eighty) days to achieve the Financial Close from date the agreement. This is also in line with the standard industry practice for financial closure of Infrastructure projects of this kind & nature.</p> <p>35. Please confirm if the shall be handed over free of all encumbrances including structure, utilities etc.</p>	<p>33. Extension of Time limits not possible:</p> <p>34. Not possible, the provisions in DCA holds good</p> <p>35. Yes.</p>
12	-	-	-	<p>(O) Concessionaire</p> <p>36. It is requested that the delay of more than 180 days be considered only from the date of commercial operation and not as per the Milestone Dates since the milestone time period are inadequate for completion Of respective activities.</p>	<p>36. Provisions made in DCA holds good.</p>
13	-	-	-	<p>(P) Exclusivity</p> <p>37. It is suggested that the concession agreement include a provision protecting the interest of the concession with non compete clause as per which the Concessioning Authority shall not allow the development of a similar facility at the Port for a period 5 years from the date of commencement of the concession period.</p>	<p>37. Provisions made in DCA holds good.</p>

B
1. Commercial

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
14				Kindly provide copy of the detailed traffic study done for WQ-6 berth (traffic projections and basis for the same)	Enclosed at Annexure-5
15				Can the Wq-6 berth handle other cargo (other than CP coke, LAM coke, steel and Granite blocks)	In case of non-availability of indic cargoes, which is unlikely, Port will positively other cargoes that can be handled at this berth subject to approval of TAMP.
16				List the major users of the above cargo	Enclosed at Annexure-6
17				Traffic handled during the past five years of the above cargo (at all the berths together at VPT). Will VPT stop handling this cargo at other berths after commissioning of WQ-6. If so whether same will be provided in the concession agreement	Enclosed at Annexure-7
18				Traffic handled at WQ- 6 berth during the past five years with the break-up of cargo	This is a green field situation and as such the same is not occur.
19				What kind of competition is expected from Gangavaram port in respect of the above cargo for Wq-6	Port is gearing up to face the competition by improving the infrastructure facilities

2. Technical

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
20				Will the back-up land be adequate for storage	As per the TEFR conducted by VPT, backup area is adequate.
21				Rail /Road connectivity to allocated stack yard	Please refer TEFR
22				Detailed cost estimate (along with BoQ and item rates) and basis for the same. Also clarify the time when the prices were estimated.	Cost estimate as provided in TEFR may be referred. Estimate as per 2008- 11 schedule of Rates. [This information is for reference purposes only and it is clarified that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]

23				Kindly advise the source of electricity and drinking water & raw water for the project both during construction stage and operation stage. Also give the battery limits for these utilities. Please advise if any restriction apply in respect these utilities which will be applicable to the concessionaire	Provisions of DCA holds good. [water from GVMC, the bidder has to contact GVMC] With respect to electricity the query has been addressed vide item no. 9 above. The concessionaire having the liberty to opt to arrange these utilities at his own
24				The volume of dredging required is very small and will involve considerable cost in mobilization and demobilization of dredgers for such a small work. Hence to make the project viable it will be interest of the concessioning authority to under take the dredging works at it own cost with available VPT dredgers.	VPT will not take up the capital dredging work. Provisions of DCA holds good.

3. Concession Agreement

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
25		Appendix-13		Rates applicable in respect of land, utilities and services – kindly advise the applicable rates in respect of land, utilities (electricity and drinking water & raw water) and services. Please provide schedule and scale of applicable rates	Enclosed vide Annexure – 8.
26		Appendix-15		Performance Standards For calculation of liquidated damages payable by the concessionaire for short fall in average performance standards, the weightage assigned to each performance standard has not been given in the draft concession agreement. Kindly advise the weightage associated with each of the performance standards- Gross Berth out put, Transit storage Dwell time & Turn around time for receipt and delivery operation	Provisions of DCA holds good.
27				The storage charges does not specify the "Free period" allowed as per the TAMP notification No-26 Kindly advise the "Free Period" allowed	For Imports – 5 days. For Exports - 15 days. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]


28	Appendix-4	Project Requirements The concessionaire is required to plan , design and construct a berth length of 255m length. Kindly advise the width of the berth required or can it be as per concessionaires requirement . Also 40m of WQ-7 berth and Dolphin needs to dismantled . Kindly provide the structural drawing for the same in order to determine the extent of work required.	Enclosed vide Annexure – 9 [This information is for reference only and it is clarified here that the Bidder has to undertake the site survey by themselves ascertaining the cost of development of the Project]
29	Appendix-2	Kindly advise the rate of land lease rental applicable for the 255m water front , 2.47 Acres of berth back up area and about 12.2m of stock yard and the total licence fee payable yearly by the concessionaire.	Provisions made in DCA holds good
30		The concessionaire is required to pay a premium of one year rent in addition to the yearly rental and lump sum upfront amount of Rs 6.80 Cr. We request you kindly waive the requirement of payment of premium of one year rent	Provisions made in DCA holds good

[It may please be noted that there will be no revision in Tariff because of the information as provided above]

[The above information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]



J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED
 10-51-8/1, Kailasametta Uplands
 Visakhapatnam – 530 003.

Project 
 Location
 Bore hole
 Ground Water Table

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at
 Visakhapatnam Port.
 : Between WQ-5 & WQ-7 berths
 : LBH-34
 : 3.65m (i.e) at RL +0.21

Date of Commencement : 11/10/07

Date of completion : 17/10/07
 Ground RL : +3.86

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Remarks
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
+3.86	+0.86	0.00	3.00	Filled up soil	3.00	DS-1	+0.86	3.00									
+0.86	-2.64	3.00	6.50	Fine grained sand	3.50	DS-2	-1.14	5.00									
-2.64		6.50				SPT-1			-2.64	6.50	2	2	3	5			U = 0.0965 kg/cm ²
						DS-3	-3.64	7.50									R = 0.1179 kg/cm ²
						VST-1	-4.64	8.50									S = 0.82 kg/cm ²
						SPT-2			-5.64	9.50	3	4	2	6			at RL -4.64
						UDS-1	-6.64	10.50									UDS Slippe at -3.64
						DS-4	-7.64	11.50									U = 0.0369 kg/cm ²
						VST-2	-8.64	12.50									R = 0.058 kg/cm ²
						SPT-3			-9.64	13.50	3	3	3	6			S = 0.636 at RL -8.64
						UDS-2	-10.64	14.50									U = 0.0646 kg/cm ²
						DS-5	-11.64	15.50									R = 0.072 kg/cm ²
						VST-3	-12.64	16.50									S = 0.201 at RL -12.64
						DS-6	-13.64	17.50									
-13.64	-13.64	17.50															
	-18.34		22.20	Brownish stiff clay	4.70	SPT-4			-14.64	18.50	9	14	15	29			
						SPT-5			-15.64	19.50	6	6	12	18			
						SPT-6			-17.34	21.20	23	27	35	62			
-18.34	-20.44	22.20	24.30	Stiff clay with lime	2.10	SPT-7			-18.34	22.20	11	15	17	32			
-20.44	-21.04	24.30	24.90	Soft disintegrated rock	0.60	SPT-8			-20.44	24.30	15	25	50 (1cmPen)	>50			
-21.04	-22.61	24.90	26.47	Hard Rock with fractures	3.13										9	Nil	
-22.61	-23.17	26.47	27.03												13	Nil	
-23.17	-23.37	27.03	27.23												85	65	
-23.37	-24.17	27.23	28.03												35	Nil	

Borehole Terminated at 28.03 m below Ground Level (i.e) at RL. -24.17

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J.J.SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam – 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam Port.

Date of Commencement : 28/10

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 4/1

Bore hole

: LBH-35

Ground RL : +3.

Ground Water Table

: 3.15 m (i.e) at RL-0.11

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm			
+3.04	+1.54	0.00	1.50	Filled up soil	1.50	DS-1	+1.54	1.50								
+1.54	-1.46	1.50	4.50	Fine grained Sand	3.00	DS-2	-0.04	3.00								
-1.46	-2.96	4.50	6.00	Fine to medium grained sand with shells	1.50	SPT-1 DS-3	-2.96	6.00	-1.46	4.50	10	11	17	28		
-2.96	-10.96	6.00	14.00	Blackish Soft clay	8.00	SPT-2 UDS-1 DS-4 SPT-3 VST-1	-5.96 -6.96 -9.46	9.00 10.00 12.50	-4.46 -7.96	7.50 11.00	1 2 2	2 2 3	2 3 5	4 5		
-10.96	-20.94	14.00	23.98	Brownish Stiff clay	9.98	DS-5 SPT-4 DS-6 UDS-2 SPT-5 SPT-6 DS-7	-10.96 -13.96 -15.46 -19.46	14.00 17.00 18.50 22.50	-12.46 -16.96 -17.96	15.50 20.00 21.00	3 6 10	4 9 17	6 13 25	10 22 42		
-20.94	-22.95	23.98	25.99	Soft disintegrated rock	2.01										21	Nil
-22.95	-23.45	25.99	26.49	Hard rock with fractures	3.40										16	Nil
-23.45	-25.45	26.49	28.49												32	Nil
-25.45	-26.35	28.49	29.39												57	12

Borehole Terminated at 29.39 m below Ground Level (i.e) at RL. – 26.35



J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam Port.

Date of Commencement : 6/11/07

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 11-11-

Bore hole

: LBH-36

Ground RL

: +3.69

Ground Water Table

: 3.50m (i.e) at RL +0.19

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Re:
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
+3.69	+2.19	0.00	1.50	Filled up soil	1.50												
+2.19		1.50		Gravel	1.50	DS-1	+2.19	1.50									
	+0.69		3.00			DS-2	+0.69	3.00									
+0.69		3.00		Fine grained sand	3.50	SPT-1			-1.31	5.00	10	12	11	23			
	-2.81		6.50			SPT-2			-2.81	6.50	1	2	2	4			
-2.81		6.50		Blackish soft clay	10.50	UDS-1	-4.31	8.00									
						VST-1	-5.81	9.50									
						DS-3	-7.31	11.00									
						SPT-3			-8.81	12.50	2	3	3	6			
						UDS-2	-10.31	14.00									
						DS-4	-11.81	15.50									
	-13.31		17.00			VST-2	-13.31	17.00									
-13.31		17.00		Blackish clay with sand	7.50	SPT-4			-14.31	18.00	2	4	4	8			
						SPT-5			-15.81	19.50	4	6	7	13			
						SPT-6			-17.31	21.00	5	6	12	18			
						SPT-7			-19.31	23.00	6	9	16	25			
	-20.81		24.50			SPT-8			-20.81	24.50	7	11	19	30			
-20.81		24.50		Blackish stiff clay with pebbles	1.80	SPT-9			-21.91	25.60	14	16	24	40			
	-22.61		26.30			SPT-10			-22.41	26.10	50 (14 cm pen)			>50			
-22.61		26.30		Soft disintegrated rock	2.15											17	Nil
	-24.76		28.45														
-24.76		28.45		Hard Rock with fractures	1.00											46	39
	-25.76		29.45														

Borehole Terminated at 29.45 m below Ground Level (i.e) at RL. - 25.76

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10



J.J.SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam port.

Date of Commencement : 19/1

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 25-1

Bore hole

: LBH-37

Ground RL : +2.7

Ground Water Table

: 2.35m (i.e) at RL +0.35

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm			
+2.70	-0.30	0.00	3.00	Filled up soil (Gravel with boulders)	3.00	DS-1	+1.20	1.50								
-0.30	-3.30	3.00	6.00	Fine grained sand	3.00	DS-2 SPT-1	-0.30	3.00	-1.80	4.50	15	18	21	39		
-3.30	-13.80	6.00	16.50	Blackish soft clay	10.50	DS-3 SPT-2 VST-1 UDS-1 SPT-3 DS-4 VST-2 UDS-2	-3.30 -6.30 -7.80 -10.80 -12.30 -13.80	6.00 9.00 10.50 13.50 15.00 16.50	-4.80 -9.30	7.50 12.00	3 1	2 2	1 2	3 4		
-13.80	-16.30	16.50	19.00	Sandy clay	2.50											
-16.30	-22.27	19.00	24.97	Brownish stiff clay with lime	5.97	SPT-4 DS-5 SPT-5 DS-6 DS-7 DS-8	-17.30 -19.10 -20.10 -21.55	20.00 21.80 22.80 24.25	-16.30 -18.10	19.00 20.80	4 12	5 15	5 24	10 39		
-22.27	-26.77	24.97	29.47	Soft disintegrated rock	4.50	SPT-6			-22.27	24.97	50(6cm pen.)			>50		
-26.77	-27.91	29.47	30.61	Hard rock with fractures	1.98										40	Nil
-27.91	-28.75	30.61	31.45												47	14

Borehole Terminated at 31.45m below Ground Level (i.e) at RL. - 28.75



J.J.SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam – 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam Port.

Date of Commencement : 8/10/0

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 15/10

Bore hole

: LBH-38

Ground RL : +3.9.

Ground Water Table

: 3.70m (i.e) at RL +0.28

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm			
+3.98	+1.98	0.00	2.00	Gravel with boulders & sand	2.00											
+1.98	-1.52	2.00	5.50	Clay with sand	3.50	DS-1 SPT-1	+1.98	2.00	-0.02	4.00	7	10	11	21		
-1.52	-3.02	5.50	7.00	Clay with pebbles	1.50	DS-2	-1.52	5.50								
-3.02		7.00		Blackish Soft clay	11.00	SPT-2 VST-1	-5.02	9.00	-3.02	7.00	2	2	4	6		
						DS-3 SPT-3	-6.52	10.50	-8.02	12.00	4	3	4	7		
						DS-4 DS-5	-9.02	13.00								
						DS-5 SPT-4	-10.02	14.00	-11.02	15.00	3	3	2	5		
						VST-2	-12.02	16.00								
-14.02	-14.02	18.00	18.00	Blackish Stiff clay	1.00	SPT-5 DS-6	-15.02	19.00	-14.02	18.00	3	4	5	9		
-15.02		19.00		Brownish stiff clay	7.15	SPT-6 DS-7	-17.02	21.00	-16.02	20.00	10	13	18	31		
						SPT-7			-18.02	22.00	6	13	19	32		
						SPT-8			-19.02	23.00	13	20	27	47		
						SPT-9			-20.52	24.50	15	18	26	44		
						SPT-10			-22.17	26.15	50(1cm pen.)			>50		
-22.17	-24.67	26.15	28.65	Soft disintegrated rock	2.50										8	Nil
-24.67	-25.65	28.65	29.63	Hard rock with fractures	1.98										12	Nil
-25.65	-26.65	29.63	30.63												74	13

Borehole Terminated at 30.63 m below Ground Level (i.e) at RL. - 26.65

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J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at
Visakhapatnam Port.

Date of Commencement : 27/10/0

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 2-11-0

Bore hole

: LBH-39

Ground RL : +3.51

Ground Water Table

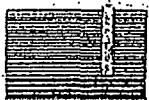
: 3.49m (i.e) at RL +0.02

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm			
+3.51	+1.51	0.00	2.00	Filled up soil	2.00	DS-1	+1.51	2.00								
+1.51	+0.01	2.00	3.50	Fine grained Sand	1.50											
+0.01	-2.99	3.50	6.50	Clay with sand	3.00	DS-2 SPT-1	+0.01	3.50	-1.49	5.00	6	8	9	17		
-2.99	-4.49	6.50	8.00	Clay with pebbles and shells	1.50	DS-3	-2.99	6.50								
-4.49		8.00		Blackish Soft clay	9.00	SPT-2 UDS-1	-5.99	9.50	-4.49	8.00	2	2	2	4		
						VST-1	-7.49	11.00								
						DS-4	-8.99	12.50								
						SPT-3			-10.49	14.00	2	3	3	6		
						VST-2	-11.99	15.50								
	-13.49		17.00			UDS-2	-13.49	17.00								
-13.49		17.00		Blackish Stiff clay	8.50	SPT-4			-14.99	18.50	4	6	6	12		
						DS-5	-16.49	20.00								
						SPT-5			-17.99	21.50	5	7	9	16		
	-21.99		25.50	Soft disintegrated rock	1.00	DS-6	-19.49	23.00								
						SPT-6			-20.99	24.51	9	16	19	35		
						SPT-7			-21.99	25.50	50 (12cm pen)			>50		
-21.99	-22.99	25.50	26.50													
-22.99	-23.15	26.50	26.66	Hard rock with fractures	1.56										24	Nil
-23.15	-24.05	26.66	27.56												38	Nil
-24.05	-24.55	27.56	28.06												52	11

Borehole Terminated at 28.06 m below Ground Level (i.e) at RL. - 24.55

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J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project :

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam Port.

Date of Commencement : 06/11/07

Location :

: Between WQ-5 & WQ-7 berths

Date of completion : 10/11/07

Bore hole :

: LBH-40

Ground RL : +2.89

Ground Water Table :

: 3.20m (i.e) at RL -0.31

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Remarks
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
+2.89	+1.39	0.00	1.50	Filled up soil	1.50	DS-1	+1.39	1.50									
+1.39	-0.11	1.50	3.00	Fine grained Sand	1.50	DS-2	-0.11	3.00									
-0.11		3.00		Blackish Soft clay	12.00	SPT-1	-4.61	7.50	-3.11	6.00	3	1	1	2			
						DS-3			-6.61	9.50	2	3	3	6			
						SPT-2			-7.61	10.50	3	4	4	8			
						SPT-3											
						VST-1	-9.11	12.00									
						UDS-1	-10.61	13.50									
						DS-4	-12.11	15.00									U=0.1236 kg/cm ² R=0.1122 kg/cm ² S=1.10 at RL -9.11
-12.11	-12.11	15.00	15.00	Brownish Stiff clay	1.50	SPT-4			-13.61	16.50	6	7	8	15			
-13.61	-13.61	16.50	16.50	Grayish Stiff clay	6.50	SPT-5	-18.11	21.00	-15.11	18.00	5	6	7	13			
									-16.61	19.50	6	9	10	19			
-20.11	-20.11	23.00	23.00	Soft disintegrated rock	1.66	SPT-6			-19.11	22.00	7	12	17	29			
									-20.11	23.00	50	(15cm pen)		>50			
-21.77	-21.77	24.66	24.66	Hard rock with fractures	2.69	SPT-7											
-23.27	-23.27	26.16	26.16			SPT-8									12	Nil	
															36.40	Nil	
-24.46	-24.46	27.35	27.35														

Borehole Terminated at 27.35 m below Ground Level (i.e) at RL. - 24.46

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J.J.SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam port.

Date of Commencement : 15/11/07

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 20/11/07

Bore hole

: MBH-1

Plat form level : +2.17

Ground Water Table

: Par with platform level

Dredged level : +0.64

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L.& Depth at which sample collected		R.L.& Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Remark
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
+2.17	-2.33	0.00	4.50	Fine grained sand	4.50	DS-1	-0.83	3.00									
-2.33	-3.83	4.50	6.00	Clay with sand	1.50	SPT-1 DS-2	-3.83	6.00	-2.33	4.50	2	3	4	7			
-5.53	-14.33	6.00	16.50	Blackish soft clay	10.50	VST-1 UDS-1 DS-3 DS-4 UDS-2 VST-2	-5.53 -6.83 -8.33 -9.83 -11.33 -12.83	7.50 9.00 10.50 12.00 13.50 15.00									U=0.10e kg/cm ² R=0.451k /cm ² S=0.23 a RL-5.33 U=0.338 kg/cm ² R=0.25e kg/cm ² S=1.33 e RL-12.8:
-14.33	-15.83	16.50	18.00	Stiff clay with lime pebbles	1.50	SPT-2			-14.33	16.50	4	4	5	9			
-15.83	-18.53	18.00	20.70	Lime with pebbles	2.70	SPT-3 SPT-4			-15.83 -17.33	18.00 19.50	15 19	19 24	15 26	34 50			
-18.53	-20.83	20.70	23.00	Soft disintegrated rock	2.30												
-20.83	-22.15	23.00	24.32	Hard rock with fractures	2.32										29		NIL
-22.15	-22.55	24.32	24.72												85		52.50
-22.55	-23.15	24.72	25.32												100		16.66

Borehole Terminated at 25.32 m below Ground Level (i.e) at RL. - 23.15



J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam Port.

Date of Commencement : 22/11/07

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 29/11/07

Bore hole

: MBH-2

Platform level : +0.81

Ground Water Table

: Par with platform level

Dredged level : +2.93

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Remarks
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
+2.93	-0.07	0.00	3.00	Fine grained sand	3.00	DS-1	-0.07	3.00									
-0.07	-5.07	3.00	8.00	Clay with sand	5.00	DS-2 DS-3	-3.07 -5.07	6.00 8.00									
-5.07	-13.27	8.00	16.20	Grayish / Blackish clay	8.20	SPT-1 UDS-1 DS-4 SPT-2 DS-5	-8.77 -10.27 -13.27	11.70 13.20 16.20	-6.47 -11.77	9.40 14.70	1 2 2	2 3 3	4 6				
-13.27	-15.37	16.20	18.30	Fine grained sand	2.10												
-15.37	-16.57	18.30	19.50	Coarse grained sand	1.20	SPT-3 DS-6	-16.57	19.50	-15.37	18.30	7	8	10	18			
-16.57	-19.07	19.50	22.00	Brownish stiff clay	2.50	SPT-4			-18.07	21.00	15	33	10	43			
-19.07	-21.25	22.00	24.18	Soft disintegrated rock	2.18	SPT-5			-19.07	22.00	50(8cm penetration)			>50			
-21.25	-21.85	24.18	24.78	Hard rock with fractures	2.60										17	Nil	
-21.85	-22.85	24.78	25.78												29	Nil	
-22.85	-23.85	25.78	26.78												60	12	

Borehole Terminated at 26.78 m below Ground Level (i.e) at RL. -23.85



J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at
Visakhapatnam Port..

Date of Commencement : 25/11/07

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 29/11/07

Bore hole

: MBH-3

Platform level : +0.53

Ground Water Table

: Par with platform level

Dredged level : +2.53

BORELOG

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L. & Depth at which sample collected		R.L. & Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Remarks
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
+2.53	+0.53	0.00	2.00	Platform	2.00												
+0.53	-1.97	2.00	4.50	Filled up soil	2.50												
-1.97	-3.47	4.50	6.00	Clay with sand	1.50												
-3.47	-6.27	6.00	8.80	Fine grained sand	2.80												
-6.27		8.80		Blackish soft clay		SPT-1	-7.47	10.00	-6.27	8.80	1	1	1	2			U=0.053 kg/cm ² R=0.123 kg/cm ² S=0.43 at RL=-9.47
					8.70	DS-1	-8.47	11.00									
						DS-2	-9.47	12.00									
						VST-1	-10.47	13.00									
						DS-3	-11.97	14.50									
						UDS-1											
	-14.97		17.50			SPT-2			-13.47	16.00	2	1	3	4			
						DS-4	-14.97	17.50									
-14.97		17.50		Fine Sand with brownish clay	1.50												
	-15.47		19.00														
-16.47		19.00		Brownish stiff clay		SPT-3			-16.47	19.00	5	6	9	15			
					1.50	DS-5	-17.97	20.50									
	-17.97		20.50														



J.J. SOIL INVESTIGATION AND ENVIRON CONSULTANTS (P) LIMITED

10-51-8/1, Kailasametta Uplands

Visakhapatnam - 530 003.

Project

: Geo-Technical Investigation for the Proposed construction of WQ-6 berth at Visakhapatnam Port..

Date of Commencement : 25/11/07

Location

: Between WQ-5 & WQ-7 berths

Date of completion : 29/11/07

Bore hole

: MBH-3

Platform level : +0.53

Ground Water Table

: Par with platform level

Dredged level : +2.53

Ground RL		Depth below G.L.(m)		Visual Description of Strata	Thickness of strata (m)	Type of Sample	R.L.& Depth at which sample collected		R.L.& Depth at which SPT conducted		Standard Penetration test			N-Value	Core Recovery %	RQD %	Remarks
From	To	From	To				GRL	GL (m)	GRL	GL (m)	15 cm	30 cm	45 cm				
-17.97	-20.97	20.50	23.50	Coarse grained sand with pebbles	3.00	SPT-4			-19.47	22.00	16	23	24	47			
-20.97	-24.31	23.50	26.84	Soft disintegrated rock	3.34	SPT-5			-20.97	23.50	31	35	50	>50 (12cm pen)			
-24.31	-24.91	26.84	27.44	Hard rock with fractures	1.60										53.33	NIL	
-24.91	-25.91	27.44	28.44												65	31	

Borehole Terminated at 28.44 m below Ground Level (i.e) at RL. -25.91

A detailed site plan titled "ANNEXURE - 3". The plan shows a coastal area with several labeled regions: "AREA FOR WQ-6 12.2 AC" (shaded), "ESSAR", "SHIP BUILDING CORPORATION", and "NATURAL HARBOR DEVELOPMENT COMPANY (P.L.C.)". A "ROAD" runs along the coast, with a direction indicated as "TO COAST GUARD HEAD QRTS NO.6". Several long rectangular areas are labeled "STAGE 1" through "STAGE 8". Other labels include "ONDC PLACED!", "TREATED WATER", and "WATER TREATMENT PLANT". A compass rose is located near the top right. At the bottom left, there is a signature and the text "PROPOSED STACKING AREA ROAD CONNECTIVITY FOR WQ-6 BERTH".

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ANNEXURE-4

CHARGES OF WATER SUPPLY

1. Deposit of One Year Water consumption charges
2. Water Meter connection charges of Rs 230/- + Rs 33/- (Water meter Testing charges) = Rs 268/-
3. Present rate of water = Rs 110/ per 1000 Ltrs for Private Parties
= Rs 100/ per 1000 Ltrs for Government Organisations



The present dry bulk traffic of 40.41 million tonnes is likely to increase by 44.50 million tonnes by 2011-12 as per the Consultants of Business Plan. The findings of Consultants on projections for the cargoes contemplated for the berth are as under:

C.P. Coke:

The sponge iron industry using non-coking coal as input material will play an important role in future as a substitute input for coke. The trend indicate that a large number of sponge iron based steel units may come up in the states of Orissa and Jharkhand. By 2019-20, the steel industry will demand around 26 MT of non-coking coal/coke of higher grades.

Petroleum coke is being imported by M/s Rain Calcining Limited and the same is calcined at Visakhapatnam and is exported as calcined petroleum coke. The relation between imports versus exports of Petroleum coke and CP Coke is roughly in the ratio of 3:2. Accordingly, RCL traffic would be 2.0 MT of Pet coke imports and 1.2 MT of CP coke exports totalling to 3.2 MT of handling of combined cargo flows by 2012-13. The Consultants of Business Plan have projected a traffic of 1.2 MT of CP Coke by the year 2012.13 as against present handling of 3.85 lakh tonnes.

LAM Coke:

LAM Coke is being imported by M/s RINL, Jayswal Neco Limited and other small importers. The traffic on account of M/s JSW is expected to grow to 0.70 MT by 2012-13 while traffic of other small users will continue.

Steel cargo and Granite:

For the longer term through 2020, India has set itself on a rapid expansion path to be arrived at, from the heavy industry, predominantly mining and basic and intermediate goods production. The steel industry alone is to nearly triple capacity in 15 years. As a user of some of the main raw materials that India possesses, this focus on iron and steel will have a large impact on linked industries, both forward as well as and backward, such as ports and mines. The exports by 2019-20 would be 26 MT from the country and the Consultants of Business Plan have projected 1.0 MT of steel cargo by 2012-13.

The Port is presently handling 1.48 lakh tonnes of Granite blocks traffic. Keeping in view the abundant granite reserves in and around hinterland of Visakhapatnam Port, a quantity of 2.08 lakh tonnes is considered for handling at WQ-6 berth.

MAJOR USERS OF THE CARGO

S.No	CARGO	NAME OF THE USER
1	C.P.COKE in bulk	RAIN CH CARBON INDIA LTD
2	STEEL CARGO	AARTI STEELS LTD
		BHUSHAN POWER & STEEL LTD
		BRG IRON & STEEL CO.PVT.LTD
		JINDAL STEEL & POWER LTD
		PSL LTD.
		SAIL
3	LAM COKE	BHUSHAN POWER AND STEEL LTD.
		INDIAN METALS AND FERRO ALLOYS
		JAI BALAJI INDUSTRIES
		KTC METALICS LTD
		RINL
		SURAJ PRODUCTS PVT LTD
		TATA STEEL LTD
4	GRANITE BLOCKS	FREE WORLD EXPORTS (P) LTD
		GEM GRANITES
		AJAX PETRO
		ESWAR EXPORTS
		KUNNAM GRANITE WORKS
		ENTERPRISING ENTERPRISES
		ABDUL VAHEED ROCK INDIA EXPORTS
		ALLIANCE MINERALS (P) LTD
		MADHUCOM GRANITES (P) LTD
		KODEYALAM STONES
		SAM ENTERPRISES
		GRAMAR ENTERPRISES
		BNBS EXPORTS (P) LTD
		KREPTION INDIA GRANITES
		KATTIMA (P) LTD
		5 DIFFIRENT FIRMS ARE ALSO IMPORTED SMALL QUANTITY OF CARGO
5	PETROLEUM COKE	RAIN CH CARBON INDIA LTD

		2004-05	2005-06	2006-07	2007-08	2008-09
						(in tonnes)
1	C.P. Coke (Exp)	232300	419566	426550	377890	385209
2	P. Coke (Imp)	516016	762803	863624	761167	852364
3	C.P. Coke (Imp)					81516
4	LAM Coke	657916	450827	563317	608412	320615
5	Steel (Exp)	244020	444239	395084	425500	452754
	(Imp)	32638	65059	341395	180865	90460
6.	G. Blocks	171706	166503	216857	289012	148184

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THE GAZETTE OF INDIA: EXTRAORDINARY

(Part III- Sec.4)

"Schedule of Lease rate of land belonging to the Visakhapatnam Port Trust."

Rate in Rs. per Sq.yard per annum.

Sr.No.	Zone	With effect from 1 April 1998 upto 31 March 2003		With effect from 1 April 2003 upto 31 March 2008
		For the Quinquennium 1998 - 2003		For the Quinquennium 2003-08
		In case of lease agreements covered by the specific sanction from the Government for levy of lease rent at 9% of land value.	For the other lease agreements not covered by the specific sanction from the Government.	
1.	VIII	72.00	48.00	76.20



విశాఖపట్నం పోర్ట్ ట్రస్ట్ / ఆంధ్రప్రదేశ్ ప్రభుత్వం
VISAKHAPATNAM PORT TRUST / ENGINEERING DEPARTMENT

ISO 9001 PCRT
ISO 14000 PCRT
OHSAS 18001

No. IENG/EN/PROJECTS/WQ 6P: VII / 27/
Dt. 23-10-2009.

To
M/s. ABC Infralogistics Ltd.,
5TH Floor, Bhupati Chambers,
13, Mathew Road,
MUMBAI 400 004.

FAX NO. 9122-23649235

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABC Infralogistics Ltd., Lr Dt. 17-8-09.

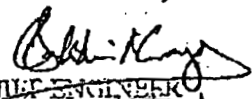
Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 4 to RFP document
of the subject project.

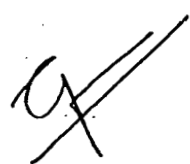
Encl: Copy of Corrigendum - 4

Yours faithfully,


CHAITANYA KUMAR
23/10/09

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vzport.com





VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG-EE(Projects)/WQ-6 Pl. VIII
Dt. 23-10-2009.

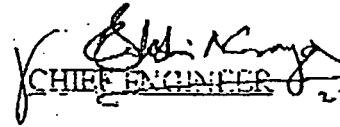
CORRIGENDUM - 4

Sub: Development of Western Quay - 6 (WQ-6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on
'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pl. VIII/213 Dt.30-9-2009

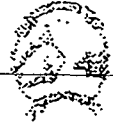
In continuation to this office letter cited, it is to inform that the dates mentioned against
serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of Introduction of RFP document
are modified as indicated below:

	Event Description	Existing date	Modified date
5	Bid Due Date	30-10-2009 Up to 11.00 AM	4-11-2009 up to 11.00 AM
6	Opening of Bids	30-10-2009 After 11.30 AM	4-11-2009 after 11.30 AM


CHIEF ENGINEER 23/10/09



విశాఖపట్నం పోర్ట్ ట్రస్ట్ / ఇంజనీరింగ్ విభాగం
VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ-6/Pl. VII/262
Dt. 19-10-2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers, 13, Mathew Road,
Mumbai 400 004.

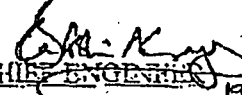
FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DB/OT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please find enclosed herewith the statement showing the queries raised by the short-listed
firms and VPT remarks thereon in connection with the subject project for information and
necessary action. (The same was already emailed on 17-10-09)

Yours faithfully


CHIEF ENGINEER 19/10/09

Encl: Statement each along with enclosures

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.co

Development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port on Design, Build, Finance, Operate and Transfer (DBFOT) basis.

Replies to Queries raised by the Bidders.

A.				Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
Sl. No.	Page No.	Clause No.	Contents of the Clause		
1				<p>(A) Geotechnical</p> <p>1. Kindly provide us the location plan drawing of the bore logs included in the feasibility report.</p> <p>2. Please provide if any sub-soil data available for the 12.2 acre designated stacking area for wq-6. What is the typical soil profile at the proposed cargo storage area? Please provide sub-soil investigation report for this storage area can be made available.</p> <p>3. Please provide, further detailed soil investigation data (including laboratory test results) can be made available.</p>	<p>1. Plan showing borehole locations as included in TEFR is enclosed.</p> <p>2. Bore log data of the stacking area is not available with VPT.</p> <p>3. The soil test results of the soil bore holes conducted at berth location are enclosed in Annexure- 1</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
2				<p>(B) CONSTRUCTION OF BERTH</p> <p>4. ——— berth length is 255m. As per the techno economical feasibility report, the vessel LOA considered is 195m and 32.2 m beam or 80,000 DWT? Please make clear.</p> <p>5. It is also indicated in chapter 7 project descriptions that up to 205 m vessel can be accommodated subject to certain limitations.</p> <p>6. How the diaphragm wall will be constructed. Please explain construction methodology of the diaphragm wall if any available with port trust.</p> <p>7. Can bidder free to adopt the own configuration of the berth other than explained in feasibility study? Please clarify.</p>	<p>4. The proposed total berth length of WQ-6 is 255m which includes the existing 40m berth length constructed with steel sheet pile wall type of construction to be dismantled and constructed afresh.</p> <p>5. Vessels up to a maximum LOA of 205 Mtrs. Can be handled at proposed WQ-6 berth. However, vessels beyond 195mtrs can be handled only when there are small vessels or no vessels at adjacent berths i.e., WQ-5 & WQ-7.</p> <p>6. Method of construction shall be as per standard applicable to marine structures.</p> <p>7. Subject to the approval of the Concessioning Authority. It may be noted that there will be no revision in Tariff because of this [and Subject to complying with specified technical and performance standards.]</p>

6	<p>(G) Water Supply</p> <p>24. Clause 2.15 of techno economical feasibility report indicates the water requirement of the existing port is being met partially from the GVMC and port's own resources. The water required for the port will be made available from GVMC or from port's own resource, the same may be clarified. The pressure at the delivery point and charges for the same may also be provided.</p>	<p>24. Refer clause 7.2(b) of DCA. Charges for water supplied shall be as per Annexure-4. However, the charges / rates are subject to revision from time to time.</p>
7.8	<p>(H) Sewerage System</p> <p>25. Please provide location of sewage treatment plant for disposal of sewage using browser. Is septic tank with soak pit allowed for buildings?</p> <p>26. Please provide details of existing water supply, sewerage and storm water drainage system along with the drawing in Auto-CAD format.</p> <p>(I) Storm Water Drainage</p> <p>27. Corridor for disposal of storm water beyond the backup yard boundary up to the disposal point at sea/ common drain, if any may please be provided.</p>	<p>25. Septic tank with soak pit allowed for buildings as per standard.</p> <p>26. Plan showing details to the extent related to the project is enclosed vide TEFR and any extra information shall be assessed by the successful bidder through necessary surveys. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p> <p>27. Plan showing the details to the extent related to the project is enclosed vide TEFR and any extra information shall be assessed by the successful bidder through necessary surveys.</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>

[Handwritten signature]

[Handwritten signature]
5/10

9	<p>(J) Electrical</p> <p>28. After studying feasibility report, under head 2.14, the port draws its entire requirement of power from the Andhra Pradesh State Electric Board (APSEB) through the 132 KV sub-station. Kindly confirm the following :</p> <p>a. Whether proposed port of Visakhapatnam (WQ-6) will have power from same 132KV s/s</p> <p>b. Also provide, the distance of 132 KV S/S from proposed (WQ-6) port of Visakhapatnam, please provide Auto CAD drawing of proposed port with general arrangement of mechanical requirements.</p> <p>c. Also, kindly provide electrical load (in KW) of all the mechanical equipments.</p>	<p>28.a)(i) The power available at 132 KV Substation is sufficient enough to cater the need of port and hence the bidder has to obtain power supply directly from AP Transco.</p> <p>(ii) However, 33KV Power supply line of AP Transco is available at a distance of about 100 mtrs from WQ-6 berth from where the power can be tapped.</p> <p>b) Since the power supply cannot be extended from 132 KV Substation of VPT, this Point is not applicable. (AUTO CADD drawing)</p> <p>c) The mechanical equipment recommended for this project is all diesel driven and the question of electrical power does not arise. However, the electrical load for lighting and other miscellaneous works will be 100 KW approximately. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
10	<p>(M) General Points</p> <p>29. Please specify that which statutory clearance will be made available by the authority and which are in the scope of bidder?</p> <p>30. Please provide details of any hydraulic modelling studies conducted by the port authority in the port area.</p> <p>31. Please provide tide, wave and current studies already available with the port authority in context with western quay -6 and outer harbor</p>	<p>29. As per Appendix- 8 of MCA.</p> <p>30. No hydraulic model studies were conducted.</p> <p>31. please refer relevant information provided in TEFR vide Chapter on Site information. No separate studies are available.</p>

B.

1. Commercial

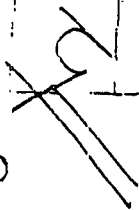
Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
14				Kindly provide copy of the detailed traffic study done for WQ-6 berth (traffic projections and basis for the same)	Enclosed at Annexure-5
15				Can the Wq-6 berth handle other cargo (other than CP coke, LAM coke, steel and Granite blocks)	In case of non-availability of indicative cargoes, which is unlikely, Port will permit positively other cargoes that can be handled at this berth subject to approval of TAMP.
16				List the major users of the above cargo	Enclosed at Annexure-6
17				Traffic handled during the past five years of the above cargo (at all the berths together at VPT). Will VPT stop handling this cargo at other berths after commissioning of WQ-6. If so whether same will be provided in the concession agreement	Enclosed at Annexure-7
18				Traffic handled at WQ-6 berth during the past five years with the break-up of cargo.	This is a green field situation and as such the same is not occur.
19				What kind of competition is expected from Gangavaram port in respect of the above cargo for Wq-6	Port is gearing up to face the competition by improving the infrastructure facilities.

2. Technical

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
20				Will the back-up land be adequate for storage	As per the TEFR conducted by VPT, the backup area is adequate.
21				Rail /Road connectivity to allocated stack yard	Please refer TEFR
22				Detailed cost estimate (along with BoQ and item rates) and basis for the same. Also clarify the time when the prices were estimated.	Cost estimate as provided in TEFR may be referred. Estimate as per 2008- VPT schedule of Rates [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]



23			Kindly advise the source of electricity and drinking water & raw water for the project both during construction stage and operation stage. Also give the battery limits for these utilities. Please advise if any restriction apply in respect these utilities which will be applicable to the concessionaire	Provisions of DCA holds good. [water from GVMC, the bidder has to contact GVMC] With respect to electricity the query has been addressed vide item no. 9 above. The concessionaire having the liberty to opt to arrange these utilities at his own
24			The volume of dredging required is very small and will involve considerable cost in mobilization and demobilization of dredgers for such a small work. Hence to make the project viable it will be interest of the concessioning authority to under take the dredging works at it own cost with available VPT dredgers	VPT will not take up the capital dredging work, Provisions of DCA holds good.
3. Concession Agreement				
Sl. No.	Page No.	Clause No.	Contents of the Clause	Remarks
25		Appendix-13	Rates applicable in respect of land, utilities and services - kindly advise the applicable rates in respect of land, utilities (electricity and drinking water & raw water) and services. Please provide schedule and scale of applicable rates	Enclosed vide Annexure - 8.
26		Appendix-15	Performance Standards For calculation of liquidated damages payable by the concessionaire for short fall in average performance standards, the weightage assigned to each performance standard has not been given in the draft concession agreement. Kindly advise the weightage associated with each of the performance standards- Gross Berth out put, Transit storage Dwell time & Turn around time for receipt and delivery operation	Provisions of DCA holds good.
27			The storage charges does not specify the "Free period" allowed as per the TAMP notification No-26 Kindly advise the "Free Period" allowed	For Imports - 5 days. For Exports - 15 days. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]



9/10

28	Appendix-4	<p>Project Requirements</p> <p>The concessionaire is required to plan , design and construct a berth length of 255m length. Kindly advise the width of the berth required or can it be as per concessionaires requirement . Also 40m of WQ-7 berth and Dolphin needs to dismantled . Kindly provide the structural drawing for the same in order to determine the extent of work required.</p>	<p>Enclosed vide Annexure – 9</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project</p>
29	Appendix-2	<p>Kindly advise the rate of land lease rental applicable for the 255m water front , 2.47 Acres of berth back up area and about 12.2m of stock yard and the total licence fee payable yearly by the concessionaire.</p>	<p>Provisions made in DCA holds good.</p>
30		<p>The concessionaire is required to pay a premium of one year rent in addition to the yearly rental and lump sum upfront amount of Rs 6.80 Cr. We request you kindly waive the requirement of payment of premium of one year rent</p>	<p>Provisions made in DCA holds good.</p>

[It may please be noted that there will be no revision in Tariff because of the information as provided above]

[The above information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]

637

Mridul Muralidharan

From: sistla lakshminarayana [sistla1@yahoo.co.in]
Sent: 17 October 2009 08:06
To: tarkesh.tiwari@essar.com; sagarwal@mundraport.com; usekhar@imc.net.in; abginfra - mridul; cevpt; ch srinivasa rao; Joseph Akkarapatty; sistla lakshminarayana mundra; sumeet.agrawal@mundraport.com; krk@imc.net.in
Cc:
Subject: replies to queries to wq-6
Attachments: wq6 queries and answers 171009.doc

Respected sir,

Wishing you all a happy diwali,

Please find herewith enclosed the answers to queries raised in respect of wq-6 project on dbfot basis, which shall also be forwarded through fax as well as speed post during the next working day.


Thanking you sir,

Yours faithfully,

Sistla Lakshminarayana, ee(projects), ce department, vpt, visakhapatnam-530035.

Phone: (cell): 099482 98342 , (office):+91 891 2873340.

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Development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port on Design, Build, Finance, Operate and Transfer (DBFOT) basis.

Replies to Queries raised by the Bidders.

A.

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
1	-	-	-	<p>(A) Geotechnical</p> <p>1. Kindly provide us the location plan drawing of the bore logs included in the feasibility report.</p> <p>2. Please provide if any sub-soil data available for the 12.2 acre designated stacking area for wq-6. What is the typical soil profile at the proposed cargo storage area? Please provide sub-soil, investigation report for this storage area can be made available.</p> <p>3. Please provide, further detailed soil investigation data (including laboratory test results) can be made available.</p>	<p>1. Plan showing borehole locations as included in TEFR is enclosed.</p> <p>2. Bore log data of the stacking area is not available with VPT.</p> <p>3. The soil test results of the soil bore holes conducted at berth location are enclosed in Annexure- 1</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
2	-	-	-	<p>(B) CONSTRUCTION OF BERTH</p> <p>4. ——— berth length is 255m. As per the techno economical feasibility report, the vessel LOA considered is 195m and 32.2 m beam or 80,000 DWT? Please make clear.</p> <p>5. It is also indicated in chapter 7 project descriptions that up to 205 m vessel can be accommodated subject to certain limitations.</p> <p>6. How the diaphragm wall will be constructed. Please explain construction methodology of the diaphragm wall if any available with port trust.</p> <p>7. Can bidder free to adopt the own configuration of the berth other than explained in feasibility study? Please clarify.</p>	<p>4. The proposed total berth length of WQ-6 is 255m which includes the existing 40m berth length constructed with steel sheet pile wall type of construction to be dismantled and constructed afresh.</p> <p>5. Vessels up to a maximum LOA of 205 Mtrs. Can be handled at proposed WQ-6 berth. However, vessels beyond 195mtrs can be handled only when there are small vessels or no vessels at adjacent berths i.e., WQ-5 & WQ-7.</p> <p>6. Method of construction shall be as per standard applicable marine structures.</p> <p>7. Provisions made in DCA holds good. Subject to the approval of the Concessioneing Authority . It may be noted that there will be no revision in Tariff because of this.</p>

4	-	-	-	<p>(D) Civil Works in the Back-up yard</p> <p>16. For any building "Tsunami" force condition to be reviewed?</p> <p>17. 3nos. of 30M. high mast provision is observed.. Please confirm.</p> <p>18. Please provide Auto CAD drawing of plant layout in global co-ordinate system.</p> <p>19 Fire Fighting system is not mentioned. Please provide the detail requirements.</p>	<p>16. Provisions in the DCA document holds good. Please refer to the relevant clauses of DCA on design requirements.</p> <p>17. 3nos of 30M. high mast identified illumination for backup area behind the berth</p> <p>18. AUTO CADD drawing as available enclosed. Global co-ordinate system drawings not available with VPT</p> <p>19. As per the provisions mentioned Appendix-4, 6 and 8 of DCA</p>
5	-	-	-	<p>(E) Road engineering</p> <p>20. As per the feasibility report, 2-lane road facility is already there along the periphery of wq-6 and further road is not required. Pl. Clarify following.</p> <p>a. The condition of existing road i.e whether it is capable to bear additional traffic load through the period.</p> <p>b. The existing crust of the road.</p> <p>c. The cross section of road including drainage arrangement.</p> <p>21. Please provide details of existing road network (including crust details) along with Auto CAD drawing. Please provide details if there is any specific utility requirement along the road and any particular utility crossing location across the road.</p> <p>22. Please clarify requirement of security gate etc along with location details.</p> <p>23. Please provide detailed requirement of parking space including location marked on Auto Cad drawing, also capacity to be provided.</p>	<p>20. a. Yes b & c. Please refer TEFR [This information is for reference purpose only and it is clarified here that the Bidder is to undertake the site survey by themselves ascertaining the cost of development of Project]</p> <p>21. Plan showing road connectivity relevant to the project is enclosed (Annexure-3)</p> <p>22. Security gates as required shall be planned and provided by Concessionaire suitable to project.</p> <p>23. Concessionaire shall plan their own parking space within the area allotted for this project.</p>

6	-	-	-	<p>(G) Water Supply</p> <p>24. Clause 2.15 of techno economical feasibility report indicates the water requirement of the existing port is being met partially from the GVMC and port's own resources. The water required for the port will be made available from GVMC or from port's own resource, the same may be clarified. The pressure at the delivery point and charges for the same may also be provided.</p>	<p>24. Refer clause 7.2(b) of DCA. Charge for water supplied shall be as per Annexure-4. However, the charge / rates are subject to revision from time to time.</p>
7,8	-	-	-	<p>(H) Sewerage System</p> <p>25. Please provide location of sewage treatment plant for disposal of sewage using browser. Is septic tank with soak pit allowed for buildings ?</p> <p>26. Please provide details of existing water supply , sewerage and storm water drainage system along with the drawing in Auto-CAD format.</p> <p>(I) Storm Water Drainage</p> <p>27. Corridor for disposal of storm water beyond the backup yard boundary up to the disposal point at sea/ common drain , if any may please be provided.</p>	<p>25. Septic tank with soak pit allowed for buildings as per standards</p> <p>26. Plan showing the details to the extent related to the project is enclosed vide TEFR and any extra information shall be assessed by the successful bidder through necessary surveys. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p> <p>27. Plan showing the details to the extent related to the project is enclosed vide TEFR and any extra information shall be assessed by the successful bidder through necessary surveys.</p> <p>[This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>

9				<p>(J) Electrical</p> <p>28. After studying feasibility report, under head 2.14, the port draws its entire requirement of power from the Andhra Pradesh State Electric Board (APSEB) through the 132 KV sub-station. Kindly confirm the following :</p> <p>a. Whether proposed port of Visakhapatnam (WQ-6) will have power from same 132KV s/s</p> <p>b. Also provide , the distance of 132 KV S/S from proposed (WQ-6) port of Visakhapatnam , please provide Auto CAD drawing of proposed port with general arrangement of mechanical requirements.</p> <p>c. Also , kindly provide electrical load (in KW) of all the mechanical equipments.</p>	<p>28.a)(i) The power available at 132 KV Substation is sufficient enough to cater the need of port and hence the bidder has to obtain power supply directly from AP Transco.</p> <p>(ii) However, 33KV Power supply line of AP Transco is available at distance of about 100 mtrs from WQ-6 berth from where the power can be tapped.</p> <p>b) Since the power supply cannot be extended from 132 KV Substation VPT, this Point is not applicable (AUTO CADD drawing)</p> <p>c) The mechanical equipment recommended for this project is a diesel driven and the question of electrical power does not arise. However, the electrical load for lighting and other miscellaneous works will be 100 KW approximately. [This information is for reference purpose only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
10				<p>(M) General Points</p> <p>29. Please specify that which statutory clearance will be made available by the authority and which are in the scope of bidder?</p> <p>30. Please provide details of any hydraulic modelling studies conducted by the port authority in the port area.</p> <p>31. Please provide tide, wave and current studies already available with the port authority in context with western quay -6 and outer harbour.</p>	<p>29. As per Appendix- 8 of MCA.</p> <p>30. No hydraulic model studies were conducted.</p> <p>31. please refer relevant information provided in TEFR vide Chapter on Site information. No separate studies are available.</p>

				<p>32. Duration of the project envisaged 24 month, does not seems to be practical/ possible because of :</p> <ul style="list-style-type: none"> a. Consolidation of the yard area. b. Time requirement for engineering. c. Demolition of structure in area. <p>This may be extended to 36 months as 9 months would leave in engineering. Only 15 months will remain for the construction which seems to be difficult to achieve.</p>	<p>32. Please refer to Appendix-1 of DC, with respect to the detail requested.</p> <p>[This information is for reference purpose only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
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11	-	-	-	<p>(N) Conditions Precedent (Clause 3.1)</p> <p>33. The time frame of 90 days from date of Agreement for compliance of conditions Precedent is too short and should be increased reasonably.</p> <p>34. We will need and strongly suggest- a period of minimum 180 (one hundred & eighty) days to achieve the Financial Close from date the agreement. This is also in line with the standard industry practice for financial closure of Infrastructure projects of this kind & nature.</p> <p>35. Please confirm if the shall be handed over free of all encumbrances including structure, utilities etc.</p>	<p>33. Extension of Time limits not possible.</p> <p>34. Not possible, the provision in DCA holds good</p> <p>35. Yes.</p>
12	-	-	-	<p>(O) Concessionaire</p> <p>36. It is requested that the delay of more than 180 days be considered only from the date of commercial operation and not as per the Milestone Dates since the milestone time period are inadequate for completion Of respective activities.</p>	<p>36. As per the provisions made in clauses 6.9 and 15.1(a) of DCA holds good.</p>
13	-	-	-	<p>(P) Exclusivity</p> <p>37. It is suggested that the concession agreement include a provision protecting the interest of the concession with non compete clause as per which the Concessioning Authority shall not allow the development of a similar facility at the Port for a period 5 years from the date of commencement of the concession period.</p>	<p>37. Clause 12.2 C of MC holds good</p>

B.

1. Commercial

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
14				Kindly provide copy of the detailed traffic study done for WQ-6 berth (traffic projections and basis for the same)	Enclosed at Annexure-5
15				Can the Wq-6 berth handle other cargo (other than CP coke, LAM coke, steel and Granite blocks)	In case of non-availability of indicative cargoes, which is unlikely, Port will permit positively other cargoes that can be handled at this berth subject to approval of TAMP.
16				List the major users of the above cargo	Enclosed at Annexure-6
17				Traffic handled during the past five years of the above cargo (at all the berths together at VPT). Will VPT stop handling this cargo at other berths after commissioning of WQ-6. If so whether same will be provided in the concession agreement	Enclosed at Annexure-7
18				Traffic handled at WQ-6 berth during the past five years with the break-up of cargo	This is a green field situation and as such the same is not occur.
19				What kind of competition is expected from Gangavaram port in respect of the above cargo for Wq-6	Port is gearing up to face the competition by improving the infrastructure facilities.

2. Technical

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
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21				Rail /Road connectivity to allocated stack yard	Please refer TEFR
22				Detailed cost estimate (along with BoQ and item rates) and basis for the same. Also clarify the time when the prices were estimated.	Cost estimate as provided in TEFR may be referred. Estimate as per 2008- VP schedule of Rates [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]

23				Kindly advise the source of electricity and drinking water & raw water for the project both during construction stage and operation stage . Also give the battery limits for these utilities. Please advice if any restriction apply in respect these utilities which will be applicable to the concessionaire	Provisions of DCA holds good. [water from GVMC, the bidder has to contact GVMC] With respect to electricity the query has been addressed vide item no. 9 above. The concessionaire having the liberty to opt to arrange these utilities at his own
24				The volume of dredging required is very small and will involve considerable cost in mobilization and demobilization of dredgers for such a small work. Hence to make the project viable it will be interest of the concessioning authority to under take the dredging works at it own cost with available VPT dredgers	VPT will not take up the capital dredging work. Provisions of DCA holds good.

3. Concession Agreement

Sl. No.	Page No.	Clause No.	Contents of the Clause	Queries/Comments & Suggestions with relevant reasons/remarks	Remarks
25		Appendix-13		Rates applicable in respect of land , utilities and services – kindly advice the applicable rates in respect of land , utilities(electricity and drinking water & raw water) and services . Please provide schedule and scale of applicable rates	Enclosed vide Annexure – 8.
26		Appendix-15		Performance Standards For calculation of liquidated damages payable by the concessionaire for short fall in average performance standards , the weightage assigned to each performance standard has not been given in the draft concession agreement . Kindly advise the weightage associated with each of the performance standards- Gross Berth out put , Transit storage Dwell time & Turn around time for receipt and delivery operation	Provisions of DCA holds good.
27				The storage charges does not specify the "Free period" allowed as per the TAMP notification No-26 Kindly advise the "Free Period" allowed	For Imports – 5 days. For Exports - 15 days. [This information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]

28		Appendix-4		<p>Project Requirements</p> <p>The concessionaire is required to plan , design and construct a berth length of 255m length. Kindly advise the width of the berth required or can it be as per concessionaires requirement . Also 40m of WQ-7 berth and Dolphin needs to dismantled . Kindly provide the structural drawing for the same in order to determine the extent of work required.</p>	<p>Enclosed vide Annexure – 9</p> <p>[This information is for reference purpose only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]</p>
29		Appendix-2		<p>Kindly advise the rate of land lease rental applicable for the 255m water front , 2.47 Acres of berth back up area and about 12.2m of stock yard and the total licence fee payable yearly by the concessionaire.</p>	<p>Provisions made in DCA holds good.</p>
30				<p>The concessionaire is required to pay a premium of one year rent in addition to the yearly rental and lump sum upfront amount of Rs 6.80 Cr. We request you kindly waive the requirement of payment of premium of one year rent</p>	<p>Provisions made in DCA holds good.</p>

[It may please be noted that there will be no revision in Tariff because of the information as provided above]

[The above information is for reference purposes only and it is clarified here that the Bidder has to undertake the site survey by themselves for ascertaining the cost of development of the Project]

विशाखपट्टणम पोतन न्यास / अगियंता विभाग
VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pl VIII/23:
Dt. 30-9 - 2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers, 13, Mathew Road,
Mumbai 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.

Ref: M/s. ABG Infralogistics Ltd., Lr Dt. 17-8-09.

Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 3 to RFP document
of the subject project.

Encl: Copy of Corrigendum - 3

Yours faithfully,


CHIEF ENGINEER

Copy to: FA&CAO/TM/DC/CME/Director (R&P) i/c for information.

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Gains: "PORTRUST" E-mail: info@vizagport.com

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1/1

ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ -6/Pl VIII

Dt. 30-9-2009.

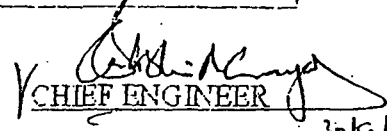
CORRIGENDUM - 3

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on 'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pl. VIII/213 Dt.12-9-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against serial numbers 5 & 6 of the schedule at page 6 under clause 1.3 of Introduction of RFP document are modified as indicated below:

	Event Description	Existing date	Modified date
5	Bid Due Date	16-10-2009 Up to 11.00 AM	30-10-2009 up to 11.00 AM
6	Opening of Bids	16-10-2009 After 11.30 AM	30-10-2009 after 11.30 AM


CHIEF ENGINEER

30/9/09

విశాఖపట్టణం పర్యవేక్షణ / అభివృద్ధి విభాగం
VISAKHAPATHNAM PORT TRUST/ENGINEERING DEPARTMENT



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/P. VII/232
Dt. 30-9-2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupali Chambers, 13, Mathew Road,
Mumbai 400 004.

✓ FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 3 to RFP document
of the subject project.

Encl: Copy of Corrigendum - 3.

Yours faithfully,

CHIEF ENGINEER
30/9/09

Copy to: FA&CAO/TM/DC/CME/Director (R&P) i/c for information.

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vzsgport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ-6/Pt. VIII
Dt. 30-9-2009.

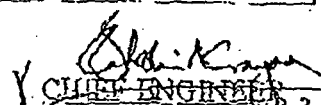
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'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VIII/213 Dt. 12-9-2009

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Y. CHIEF ENGINEER 30/9/09

ABG

From: "sistla lakshminarayana" <sistlaln1@yahoo.co.in>
To: "P. Vijayakrishnan - VOTL - MUM" <Pattabiraman.Vijayakrishnan@essar.com>;
<agarg@mundraport.com>; <hq@abginfra.com>; <imcvizag@imc.net.in>; "cevp" <cevizagport@yahoo.co.in>
Cc: "sistla lakshminarayana" <sistlaln1@hotmail.com>
Sent: Tuesday, 22 September 2009 11:25 AM
Attach: WQ-6 TEFR 10.07.2009.doc
Subject: Fw: Re: Development of Western Quay *WQ-6) Berth in the Northern Arm of Inner harbour of VPT for handling Dry Bulk Cargo on DBFOT basis

Dear sir,
with reference to your letter, it may please be noted that copy of tefr will issued to you upon request. in the mean while, please find herewith enclosed a soft copy of the techno-economic feasibility report for wq-6 project for your reference.

Yours faithfully,

1, ee (projects), vpt, visakhapatnam.

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TECHNO-ECONOMIC FEASIBILITY REPORT
FOR
DEVELOPMENT OF WESTERN QUAY-6 (W.Q-6) BERTH
IN THE INNER HARBOUR OF
PORT OF VISAKHAPATNAM FOR HANDLING DRY BULK CARGO
ON DBFOT BASIS



JULY 2009

VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM – 530 035

FAX - 0891 - 2565023 TEL. NO.- 0891 - 2873353
E-mail: info@vizagport.com WebSite: www.vizagport.com

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CHAPTER - I PROJECT BACKGROUND

1.1 Introduction

The Port of Visakhapatnam, the first Indian Major Port to cross 64 MT mark in cargo throughput is consistently making relentless efforts in enhancing its capacity in consonance with changing requirements of the trade.

Located almost between Chennai and Calcutta, the Port of Visakhapatnam was opened to commercial shipping on 7th Oct. 1933. The Port serves a vast hinterland comprising primary and secondary service area, which includes -Chatisghar, Jharkhand, Bihar, Uttar Pradesh, Madhya Pradesh and parts of Orissa, West Bengal and Punjab. The only Indian port having three International Accreditations at her credit viz.,

ISO 14001 - 1996 -	EMS (Environmental Management System)
OHSAS - 18001 -	(Occupational Health & Safety Management) and
ISO 9001 - 2000 -	QMS (Quality Management System)

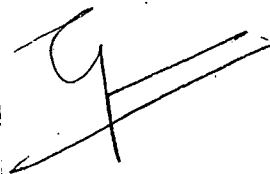
1.2 The Growth

The Port which started with traffic of 1.3 lakh tonnes during the year 1933 has made rapid strides in cargo handling and attained a throughput of 64.60 MT in 2007-08. Having recognized the imperative need to provide *just in time service* to the customers, the port has taken several administrative reforms in the past few years to improve the efficiency and productivity. The average output per ship berthday in 2007-08 is about 10600 tonnes and pre-berthing detention on Port A/c was 5.10 hours.

1.3 The vision

As per the indications received, the traffic is likely to touch 82.2 MT by 2011-12. This increase in demand is foreseen not only in terms of quantity but also in quality. To meet the anticipated demand, Port has formulated various developmental programmes aimed-at capacity augmentation, which includes deepening of channels, strengthening and deepening at berths, upgradation/construction of berths and logistic improvement.

In consonance with the guidelines of the Ministry for construction of new berths on BOT basis, a proposal to construct one multi-purpose berth in the inner harbour of the Port adjacent to WQ.5 berth has been conceptualized. The present proposal aims at examining the Techno-economic feasibility of the proposal.



1.4 Scope of the report

Development of WQ6 berth is in the northern arm of the inner harbour of Visakhapatnam Port on BOT basis as multipurpose cargo berth. This report covers.

- (a) Study of various alternative layouts for developing the WQ6 berth on western quay to evolve the most suitable layout.
- (b) Conducting the topographical survey of the proposed area to identify the existing structures requiring demolition/ re routing and to assess cost of such demolition as well as assessment of cost of dredging.
- (c) Techno-economic analysis of the proposed project.
- (d) Identification of the approvals required for the project from the statutory authorities.



CHAPTER - 2

PORT INFRASTRUCTURE & PAST PERFORMANCE

2.1 The port, situated at latitude $17^{\circ} 41'$ North and longitude $83^{\circ} 17'$ East, comprises two harbours viz., the inner harbour and the outer harbour. Besides, there is a fishing harbour adjacent to the Port. The outer harbour is encompassed by three breakwaters viz., north breakwater (412m), south breakwater (1543m) and east breakwater (1070m). The waterspread and land area available in the two harbours are as follows:

	(hectares)	
	Inner harbour	Outer harbour
▪ Water spread	100	200
▪ Land area	3881	25

The dimensions of the approach channels are as under:

	(meters)	
	Inner harbour	Outer harbour
▪ Length	1620	1700
▪ Depth	11.8	20.0
▪ Width	97.5	200

Ship dimensions permitted through the inner and outer harbour are indicated below:

	(meters)	
	Inner harbour	Outer harbour
▪ LOA	230	280
▪ Beam	32.50	48
▪ Draft	11.0	17

2.2 BERTH FACILITIES

Presently, there are 18 alongside berths in the inner harbour and 6 berths and one oil mooring in the outer harbour. Following table gives the ship sizes permitted and cargoes handled at each of these berths.



Berths	LOA (m)	Beam (m)	Draft (m)-	Commodities handled	Crane position
A. Inner Harbour					
East quay-1 #	167.64	32.20	10.06	Pet coke, ISM, soya, other bulk, BF slag, ores, l.band, Feldspar, fertilizers, LAM Coke	4 Nos. 15 T
East quay-2 #	167.64	32.20	10.06		4 Nos. 10 T
East quay-3 #	167.64	32.20	10.06		4 Nos. 10 T
East quay-4 #	231.00	32.20	10.06		4 Nos. 15 T
East quay-5 #	167.64	32.20	10.21		2 Nos. 15 T
East quay-6 #	182.90	32.20	10.21	Liquid ammonia, Phos. acid, B.F. slag	3 Nos. 10 T
East quay-7 #	255.00	32.20	10.70	Thermal coal, scrap, fertilizers	4 Nos. 20 T
East quay-8 # (BOT)	255.00	32.20	10.70	BF slag, iron ore, steam coal, fertilizers, sleryne monomar	3 Nos. 104 T (Harbour mobile crane)
East quay-9 # (BOT)	255.00	32.20	10.70	BF slag, ISM, feld spar, steam coal, fertilizer,	
West quay-1 #	212.00	32.20	10.70	Coking coal, thermal coal, limestone and other break bulk cargoes	
West quay-2 #	226.70	32.20	10.70	Iron ore, pellets, T.coal, C.Coal	
West quay-3 #	201.12	32.20	10.70*	C.coal, LP coke, limestone	
West quay-4 #	243.00	32.20	10.70*	Coking coal, thermal coal, steam coal	
West quay-5 #	241.70		10.70*	Caustic soda, alumina, T. Coal	
RE. WQ.1	170.00	32.20	8.00	Container & General cargo	
Fertilizer berth	173.13	32.20	10.06	Captive berth of M/s. CFL	
OR-I **	183.00	32.2	10.06	POL products, LPG, Styrene monomar	
OR-II **	183.00	32.2	9.75		
B. Outer harbour					
Ore berth-1	270.00	42.00	16.50 @	Iron ore, iron pellets, lash vessels	
Ore berth-2	270.00	42.00	16.50 @		
Oil mooring (NOM)	250.00	46.00	15.00	Transhipment of POL crude & products	
General Cargo Berth	356.00	42.00	14.50 @@	Coking coal & bulk cargoes (on rising tide of 0.5 mtrs)	
Off-shore tanker terminal (OSTT)	408.00	50.00	17.00 @@	Crude oil (on rising tide of 0.5 mtrs)	
LPG	370.92	42.00	13.0	LPG, POL	
Container terminal (operated by M/s. VCTPL	451.00	42.00	14.9	Containers	
# Multipurpose berth * continuous quay					

** subject to maximum 195 mtrs at one of the two berths

@ on a rising tide of 0.3 mtrs.

@@ on a rising tide of 0.5 mtrs.

2.3 Details of the port crafts

Type	Number	Type	Number
Fire float (Agni - Class-I)	1	Mooring Launches	4
Oil Barge	1	Floating cranes	2
Oil recovery craft (on hire basis)	1	Pilot launches	3
Steel Barges	2	Tractor tugs (shipping)	8
Survey Launch	1	General purpose launches	5
Water Barge	1	Dredgers	1

2.4 Container handling facilities (by M/s. VCTPL)

- Deepest container terminal among major ports (14.9 mtrs)
- Paved container yard – 17 hectares
- 2 Nos. RMGC, 2 Nos. RTGC and 4 Nos. Reach stackers
- Facilities to handle 132 reefer containers
- Railway siding facilities to handle full rake (45 wagons)
- Excellent road and rail connectivity
- CFS facilities by CONCOR, CWC and two private operators.

2.5 The following mechanized facilities are existing at EQ.8 & EQ.9 berths operated by M/s. Vizag seaport Ltd.,

- 104 T capacity harbour mobile crane .. 3 Nos.
- 240 T capacity mobile hoppers .. 2 Nos.
- 1500 TPH stackers .. 2 Nos.
- 1100 TPH wagon loader .. 1 No.
- Weigh bridges .. 2 Nos.

2.6 MECHANISED HANDLING FACILITIES:

NAME OF THE CARGO	DETAILS OF MECHANISED FACILITIES
Iron ore & Pellets	Mechanised ore handling plant consisting of ship loader of 8000 TPH capacity Three bucket wheel reclaimers of 4000 tph each Twin wagon tipplers of 100 T lifting capacity and 27 tips per hour, Third tippler of 120 T lifting capacity and 30 tips per hour Two stackers of 2700 TPH each and a conveyor System of about 9 kms. (both ways)
Alumina	Ship loader with a capacity of 2200 T/hour and three sylos of 25000 T each (owned, operated and maintained by M/s NALCO) Mechanised wagon unloading system to unload Alumina from wagons @ 1100 TPH
Crude Oil	Three unloading arms with discharge capacity of 5500 tonnes per hour
Transshipment of crude oil	Direct discharge from ship to ship at one of the oil moorings
Fertilizer and Fertilizer raw material	Screw type marine unloader of capacity 400 Tonnes/ Hour (Owned, operated and maintained by M/s.CFL)
Import and Export of Petroleum product	Two oil berths equipped with pipeline facilities connecting the storage tanks of the refinery
Caustic soda	Direct discharge through pipeline @ 600 TPH in case of caustic soda and three sylos of 10000 T capacity each
Liquid Ammonia and Phosphoric Acid, Sulphuric Acid, Styrene monomer, Molten sulphur, etc.	Direct discharge facilities through pipeline
Soya extracts	Four sets of conveyor of 100 TPH capacity each and Mini dozers
At BOT berths	3 Nos. 104 T. Harbour mobile cranes, 2 nos. 1500 TPH stacker reclaimer, 2 nos. 240 T mobile hoppers, 1 nos. 1100 TPH wagon loader

2.7 STORAGE FACILITIES

Sl. No.	Type of storage	Under port (Area in sq.mtrs.)	Under user agencies (Tonnes)
1	Covered area		
	A) Transit shed	30525	--
	B) Storage shed	29909	615929
	C) Warehouse	10483	66230+(100 to 125 TEUs)
	D) SYLOS	--	81500
2	Open area	1243380	114,884 Tones and 309356 sq.m.
3	Liquid bulk cargo (tank farms) etc.	--	1216648 121437 KL

2.8 Facilities for transportation of cargo to the hinterland

The port owns, operates and maintains 200.06 kms of track length. There are 12 sidings and 17 open terminals in the Port railway system. The cargo moved by the port railways in the year 2007-08 was 35.46 MT, In addition the port has 80 kms of road network. Port Connectivity Road (PCR) from the operational area with National Highway No.5 exists.

2.9 Shore reception facilities

The Port is providing reception facilities for waste oil and garbage from ships through authorized licensees in addition to a 100 tonne capacity masonry tank to provide reception facilities to Port crafts under MARPOL Regulation 73/78.

2.10 The port has the following acquisition programmes

- Procurement of bucket wheel reclaimer.
- Replacement of tug Swarna/Nethravathi
- Replacement of 10 ton cranes by 4 Nos. harbour mobile cranes
- Mechanized cargo handling facilities at GCB
- Mechanized cargo handling facilities at two berths of inner harbour
- Installation of ship side handling facilities at WQ.7 for Alumina
- Modernization of ore handling complex

2.11 Dry Dock facilities

The Port has two Dry dock –One for repairs of Port craft and other for repairs of fishing trawlers.

The dimensions of these dry docks are indicated below:

Drydocks	Dimensions
▪ for port craft	137 x 18 x 5.6 m
▪ for fishing trawlers	65 x 21 x 6.0 m

2.12 Night Navigation facilities

Arrivals

- 1 Ships upto 114,000 DWT vessels are being berthed at OSTT with two pilots
- 2 Ships with 75,000 DWT and above are being berthed at OB-1, OB-2 and GCB with two pilots
- 3 Berthing/unberthing and double banking at NOM is restricted to daylight only
- 4 No restriction for LPG ships

Departures

- 1 No restrictions except mother tankers at NOM which are handled during daylight only
- 2 No restrictions for ships sailing from OB-1, OB-2, GCB, OSTT and daughter vessels at NOM

2.13 Pilotage

Pilotage is compulsory both for inward and outward movement of ships and for movement of ships between berths and moorings within the harbour. Pilotage services are provided round-the-clock, with prior advice to the harbour Master of the port.

2.14 Power supply

The Port draws its entire requirement of power from the Andhra Pradesh State Electric Board (APSEB) through the 132 KV sub-station. During 2006-07 it consumed 315.01 lakh units of electric power. Although the port does not face any dearth of power supply from APSEB, an alternative source available is M/s. Rain Calcining Ltd., (RCL), which is located in the vicinity of the port.

2.15 Water supply

The main source of water supply to the Port is the Greater Visakhapatnam Municipal Corporation (GVMC). In addition, the port has its own underground water source. During 2006-07 a quantity of 21.09 lakh kilo liters of water was received by Port from various sources out of which 7.66 lakh kilo litres was from Port's own resources.

2.2 PAST PERFORMANCE OF THE PORT

Visakhapatnam Port witnessed a phenomenal growth in the cargo throughput over the past one decade. The cargo throughput of the port increased from 44.34 million tonnes in 2000-01 to 64.60 million tonnes in 2007-08. Following Table below gives the year-wise growth in the cargo throughput of the port vis-à-vis the major ports of the country during the last six years.

Year	Traffic handled (in million tonnes)	% share of traffic handled by
------	-------------------------------------	-------------------------------

	Visakhapatnam Port	All major ports of the country	Visakhapatnam Port
2001-02	44.34	287.58	15.4
2002-03	46.00	313.55	14.7
2003-04	47.73	344.80	13.8
2004-05	50.15	383.63	13.1
2005-06	55.80	423.41	13.2
2006-07	56.39	463.78	12.2
2007-08	64.60	519.16	12.4

2.2.2 Commodity – Group wise traffic handled (lakh tonnes)

Commodity	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Crude Oil and Products	169.14	174.26	146.28	169.42	181.78	198.03
Iron Ore	77.58	94.18	134.22	129.58	103.27	127.90
Iron Pellets	25.97	28.73	31.01	30.29	43.74	55.73
Finished Fertilizers	7.16	8.39	13.67	22.95	26.18	32.84
Fertiliser Raw Materials (Dry + liquid)	9.02	9.42	8.02	13.29	12.98	10.61
Thermal Coal	31.97	24.83	24.88	26.97	24.06	28.95
Coking coal & Lam coke	66.66	65.63	71.75	75.18	73.03	80.64
Other cargo	72.56	71.92	71.64	90.33	98.81	111.27
Total	460.06	477.36	501.47	558.01	563.85	645.97

2.2.3 Overseas and Coastal traffic (in lakh tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Overseas	316.82	365.26	401.29	385.27	448.28
▪ Coastal	160.54	136.22	156.72	178.58	197.69
Total	477.36	501.48	558.01	563.85	645.97

2.2.4 Vessel traffic (Nos.)

	2003-04	2004-05	2005-06	2006-07	2007-08	CARG (%)*
▪ Liquid bulk	516	477	629	661	659	6.31
▪ Dry bulk						
- Mechanical	208	293	286	252	285	8.19
- Conventional	577	657	736	758	923	12.46
▪ Break bulk	264	182	221	205	267	0.28
▪ Container	112	196	199	176	212	17.29
Total	1677	1805	2071	2052	2346	8.75

2.2.5 Average DWT size of vessels (in tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	56154	54502	48180	49309	54546
▪ Dry bulk					
- Mechanical	63719	63811	64658	64629	64741
- Conventional	39568	40250	41274	40596	40257
▪ Break bulk	13274	13129	13089	17439	12487
▪ Container	14855	17379	17800	19910	19345
Overall	41876	42623	41337	42303	42195

2.2.6 Average Parcel size of vessels

(in tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	34881	32213	27863	29052	31261
▪ Dry bulk					
- Mechanical	55970	53247	53727	53235	52697
- Conventional	29546	26634	28320	28352	28214
▪ Break bulk	7082	5649	6004	7660	6334
▪ Container	2506	3216	3168	4538	5343
Overall	28435	27769	26909	27523	27487

2.2.7 Average turn round time of vessels

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	2.19	2.09	2.40	2.51	2.59
▪ Dry bulk					
- Mechanical	3.79	3.07	3.54	3.12	3.60
- Conventional	4.33	4.54	5.67	5.18	5.32
▪ Break bulk	4.19	4.48	4.76	4.97	5.15
▪ Container	0.60	0.43	0.55	0.58	0.74
Overall	3.33	3.20	3.80	3.65	3.91

2.2.8 Average Pre-berthing detention to vessels

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	0.66	0.62	0.85	0.94	0.93
▪ Dry bulk					
- Mechanical	1.58	1.04	1.30	0.93	1.17
- Conventional	0.53	0.94	1.40	1.17	1.45
▪ Break bulk	0.87	0.84	0.82	0.79	1.02
▪ Container	0.08	0.03	0.08	0.06	0.13
Overall	0.75	0.76	1.03	0.93	1.10

2.2.9 Average Stay at berth

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	1.41	1.25	1.43	1.45	1.54
▪ Dry bulk					
- Mechanical	2.09	1.90	2.11	2.06	2.31
- Conventional	3.57	3.46	4.11	3.86	3.71
▪ Break bulk	3.21	3.53	3.81	4.05	4.00
▪ Container	0.43	0.33	0.39	0.44	0.53
Overall	2.45	2.32	2.63	2.59	2.67

2.2.10 Average working time

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	1.01	1.00	1.03	1.04	1.15
▪ Dry bulk					
- Mechanical	1.38	1.08	1.20	1.15	1.23
- Conventional	2.99	2.86	3.28	3.09	2.90
▪ Break bulk	2.66	2.83	3.14	3.35	3.23
▪ Container	0.31	0.24	0.25	0.32	0.38
Overall	1.95	1.79	2.00	1.98	2.01

2.2.11 Average non-working time

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	0.40	0.35	0.40	0.40	0.39
▪ Dry bulk					
- Mechanical	0.71	0.82	0.92	0.91	1.08
- Conventional	0.58	0.59	0.82	0.76	0.81
▪ Break bulk	0.55	0.70	0.67	0.70	0.77
▪ Container	0.12	0.09	0.14	0.12	0.15
Overall	0.50	0.52	0.63	0.60	0.66

2.2.12 Average output per ship berthday

(Tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	25131	23934	19565	20090	20484
▪ Dry bulk					
- Mechanical	27738	31316	28452	28141	25671
- Conventional	7767	7782	7133	7522	7835
▪ Break bulk	2224	1605	1584	1895	1601
▪ Container	5792	9668	8097	10221	10065
Overall	11712	12241	10557	10868	10600

2.2.13 Reason wise analysis of pre-berthing detention during the past three years

Description	Ship hrs. lost		
	2005-06	2006-07	2007-08
(A) Port Account			
▪ Want of berth	1759	6305	8348
▪ Awaiting tug/pilot	--	--	--
▪ Night navigation restrictions	615	435	49
▪ Due to earlier movements	786	2018	2898
▪ Port strike	--	46	--
▪ Plant breakdowns	--	--	--
▪ Other reasons	19	1013	671
Total (A)	3179	9817	11966
(B) Other Account			
▪ Documents/Shipper not ready	42276	34438	49363
▪ Awaiting mother/daughter tankers	2591	239	12
▪ Tidal draft	135	344	295
▪ Want of cargo	1983	105	
▪ Safety reason			
▪ Bad weather/not ready	813	138	300
▪ Other reasons(including ullage)	522	933	68
Total (B)	48320	36197	50038
Total (A+B)	51499	46014	62004

2.2.14 BERTH WISE TRAFFIC AND OCCUPANCY FOR THE LAST
3 YEARS (MULTIPURPOSE BERTHS)

Berth	Berth Occupancy (in days)			Traffic (in lakh tonnes)		
	2007-08	2006-07	2005-06	2007-08	2006-07	2005-06
EQ.1	310	273	271	10.52	11.68	10.64
EQ.2	292	225	260	6.14	5.31	6.66
EQ.3	306	210	282	8.69	4.91	4.99
EQ.4	316	287	303	14.85	10.09	10.95
EQ.5	328	302	256	8.59	9.55	6.81
EQ.6	304	263	176	8.97	9.09	4.86
EQ.7	305	306	306	19.88	15.98	13.48
EQ.8	203	114	125	16.01	6.13	7.77
EQ.9	218	179	92	20.60	16.50	5.29
WQ.1	289	223	231	22.98	16.23	16.10
WQ.2	291	226	245	22.99	18.56	20.02
WQ.3	296	254	276	21.13	21.73	22.92
WQ.4	298	236	280	25.56	20.61	24.09
WQ.5	270	220	238	26.42	21.94	22.45
WQ.7*	--	120	97	--	0.67	4.96
GCB	307	312	298	53.98	53.14	49.48
Total	4333	3750	3736	287.31	242.12	231.47

*WQ.7 decommissioned w.e.f. 23-02-2007

2.2.15 FINANCIAL PERFORMANCE INDICATORS

Sl. No	ITEM	2003-04	2004-05	2005-06	2006-07	2007-08
1	Operating Income (Rs. in Crores)	454.29	501.87	528.46	533.75	565.42
2	Operating Exp. (Rs. in Crores)	221.25	223.53	243.10	243.79	279.33
3	Operating Surplus (Rs. in Crores)	233.04	278.34	285.36	289.96	286.09
4	Operating ratio (%)	48.70	44.54	46.00	45.67	49.40
5	Operating cost per tonne (Rs.)	46.35	44.57	43.57	43.24	43.24

CHAPTER - 3
TRAFFIC ANALYSIS & FORECAST

3.1 Traffic at M.P.B's:

At present the port has 13 Multi-purpose berths viz., EQ-1 to EQ-7 and WQ-1 to WQ-5 and WQ-7 in the Inner Harbour besides two BOT berths (EQ-8 and EQ-9) and one deep draft General-cum-bulk cargo berth in the Outer Harbour. The details of total traffic handled at the Port and the traffic handled at Multi-purpose berths of Inner harbour from 2001-02 to 2007-08 are as under:

(million tonnes)

Year	Total traffic	Traffic at MPB's and GCB.
2001-2002	44.68	17.34
2002-2003	46.00	20.08
2003-2004	47.74	18.97
2004-2005	50.14	19.75
2005-2006	55.80	23.15
2006-2007	56.39	24.23
2007-2008	64.60	28.79

The total traffic at the above Multi-purpose berths of Inner harbour in 2007-08 constituted 44.57% of the total traffic. The berth occupancy of multi-purpose berths during 2007-08 was as high as 79% as against the recommended norm of 75% for berth occupancy for Multi-purpose berth. The higher berth occupancies are resulting in detention to the vessels calling at the Port. About 237 ship days were lost by ships, which visited the Port during 2007-08 for want of multi-purpose berths at Inner harbour.

The present throughput 28.79 MT at Multipurpose berths of Inner harbour includes 1.16 mt of Alumina and about 0.42 MT of other liquids viz., Caustic Soda, Sulphuric and Phosphoric Acid, which were handled at WQ.5, EQ.6 and EQ.7 berths respectively.

3.2 Traffic Projections:

3.2.1 As per the projections assessed by the Port, the traffic through the Port is likely to touch 82.2 MTPA by 2011-2012.

2.4 Container handling facilities (by M/s. VCTPL)

- Deepest container terminal among major ports (14.9 mtrs)
- Paved container yard – 17 hectares
- 2 Nos. RMGC, 2 Nos. RTGC and 4 Nos. Reach stackers
- Facilities to handle 132 reefer containers
- Railway siding facilities to handle full rake (45 wagons)
- Excellent road and rail connectivity
- CFS facilities by CONCOR, CWC and two private operators.

2.5 The following mechanized facilities are existing at EQ.8 & EQ.9 berths operated by M/s. Vizag seaport Ltd.,

- 104 T capacity harbour mobile crane .. 3 Nos.
- 240 T capacity mobile hoppers .. 2 Nos.
- 1500 TPH stackers .. 2 Nos.
- 1100 TPH wagon loader .. 1 No.
- Weigh bridges .. 2 Nos.

2.6 MECHANISED HANDLING FACILITIES:

NAME OF THE CARGO	DETAILS OF MECHANISED FACILITIES
Iron ore & Pellets	Mechanised ore handling plant consisting of ship loader of 8000 TPH capacity Three bucket wheel reclaimers of 4000 tph each Twin wagon tipplers of 100 T lifting capacity and 27 tips per hour, Third tippler of 120 T lifting capacity and 30 tips per hour Two stackers of 2700 TPH each and a conveyor System of about 9 kms. (both ways)
Alumina	Ship loader with a capacity of 2200 T/hour and three sylos of 25000 T each (owned, operated and maintained by M/s NALCO) Mechanised wagon unloading system to unload Alumina from wagons @ 1100 TPH
Crude Oil	Three unloading arms with discharge capacity of 5500 tonnes per hour
Transshipment of crude oil	Direct discharge from ship to ship at one of the oil moorings
Fertilizer and Fertilizer raw material	Screw type marine unloader of capacity 400 Tonnes/ Hour (Owned, operated and maintained by M/s.CFL)
Import and Export of Petroleum product	Two oil berths equipped with pipeline facilities connecting the storage tanks of the refinery
Caustic soda	Direct discharge through pipeline @ 600 TPH in case of caustic soda and three sylos of 10000 T capacity each
Liquid Ammonia and Phosphoric Acid, Sulphuric Acid, Styrene monomer, Molten sulphur, etc.	Direct discharge facilities through pipeline
Soya extracts	Four sets of conveyor of 100 TPH capacity each and Mini dozers
At BOT berths	3 Nos. 104 T. Harbour mobile cranes, 2 nos. 1500 TPH stacker reclaimer, 2 nos. 240 T mobile hoppers, 1 nos. 1100 TPH wagon loader

2.7 STORAGE FACILITIES

Sl. No.	Type of storage	Under port (Area in sq.mtrs.)	Under user agencies (Tonnes)
1	Covered area		
	A) Transit shed	30525	--
	B) Storage shed	29909	615929
	C) Warehouse	10483	66230+(100 to 125 TEUs)
	D) SYLOS	--	81500
2	Open area	1243380	114,884 Tones and 309356 sq.m.
3	Liquid bulk cargo (tank farms) etc.	--	1216648 121437 KL

2.8 Facilities for transportation of cargo to the hinterland

The port owns, operates and maintains 200.06 kms of track length. There are 12 sidings and 17 open terminals in the Port railway system. The cargo moved by the port railways in the year 2007-08 was 35.46 MT, In addition the port has 80 kms of road network. Port Connectivity Road (PCR) from the operational area with National Highway No.5 exists.

2.9 Shore reception facilities

The Port is providing reception facilities for waste oil and garbage from ships through authorized licensees in addition to a 100 tonne capacity masonry tank to provide reception facilities to Port crafts under MARPOL Regulation 73/78.

2.10 The port has the following acquisition programmes

- Procurement of bucket wheel reclaimer
- Replacement of tug Swarna/Nethravathi
- Replacement of 10 ton cranes by 4 Nos. harbour mobile cranes
- Mechanized cargo handling facilities at GCB
- Mechanized cargo handling facilities at two berths of inner harbour
- Installation of ship side handling facilities at WQ.7 for Alumina
- Modernization of ore handling complex

2.11 Dry Dock facilities

The Port has two Dry dock –One for repairs of Port craft and other for repairs of fishing trawlers.

The dimensions of these dry docks are indicated below:

Drydocks	Dimensions
▪ for port craft	137 x 18 x 5.6 m
▪ for fishing trawlers	65 x 21 x 6.0 m

2.12 Night Navigation facilities

Arrivals

- 1 Ships upto 114,000 DWT vessels are being berthed at OSTT with two pilots
- 2 Ships with 75,000 DWT and above are being berthed at OB-1, OB-2 and GCB with two pilots
- 3 Berthing/unberthing and double banking at NOM is restricted to daylight only
- 4 No restriction for LPG ships

Departures

- 1 No restrictions except mother tankers at NOM which are handled during daylight only
- 2 No restrictions for ships sailing from OB-1, OB-2, GCB, OSTT and daughter vessels at NOM

2.13 Pilotage

Pilotage is compulsory both for inward and outward movement of ships and for movement of ships between berths and moorings within the harbour. Pilotage services are provided round-the-clock, with prior advice to the harbour Master of the port.

2.14 Power supply

The Port draws its entire requirement of power from the Andhra Pradesh State Electric Board (APSEB) through the 132 KV sub-station. During 2006-07 it consumed 315.01 lakh units of electric power. Although the port does not face any dearth of power supply from APSEB, an alternative source available is M/s. Rain Calcining Ltd., (RCL), which is located in the vicinity of the port.

2.15 Water supply

The main source of water supply to the Port is the Greater Visakhapatnam Municipal Corporation (GVMC). In addition, the port has its own underground water source. During 2006-07 a quantity of 21.09 lakh kilo liters of water was received by Port from various sources out of which 7.66 lakh kilo litres was from Port's own resources.

2.2 PAST PERFORMANCE OF THE PORT

Visakhapatnam Port witnessed a phenomenal growth in the cargo throughput over the past one decade. The cargo throughput of the port increased from 44.34 million tonnes in 2000-01 to 64.60 million tonnes in 2007-08. Following Table below gives the year-wise growth in the cargo throughput of the port vis-à-vis the major ports of the country during the last six years.

Year	Traffic handled (in million tonnes)	% share of traffic handled by
------	-------------------------------------	-------------------------------

	Visakhapatnam Port	All major ports of the country	Visakhapatnam Port
2001-02	44.34	287.58	15.4
2002-03	46.00	313.55	14.7
2003-04	47.73	344.80	13.8
2004-05	50.15	383.63	13.1
2005-06	55.80	423.41	13.2
2006-07	56.39	463.78	12.2
2007-08	64.60	519.16	12.4

2.2.2 Commodity – Group wise traffic handled (lakh tonnes)

Commodity	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Crude Oil and Products	169.14	174.26	146.28	169.42	181.78	198.03
Iron Ore	77.58	94.18	134.22	129.58	103.27	127.90
Iron Pellets	25.97	28.73	31.01	30.29	43.74	55.73
Finished Fertilizers	7.16	8.39	13.67	22.95	26.18	32.84
Fertiliser Raw Materials (Dry + liquid)	9.02	9.42	8.02	13.29	12.98	10.61
Thermal Coal	31.97	24.83	24.88	26.97	24.06	28.95
Coking coal & Lam coke	66.66	65.63	71.75	75.18	73.03	80.64
Other cargo	72.56	71.92	71.64	90.33	98.81	111.27
Total	460.06	477.36	501.47	558.01	563.85	645.97

2.2.3 Overseas and Coastal traffic (in lakh tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Overseas	316.82	365.26	401.29	385.27	448.28
▪ Coastal	160.54	136.22	156.72	178.58	197.69
Total	477.36	501.48	558.01	563.85	645.97

2.2.4 Vessel traffic (Nos.)

	2003-04	2004-05	2005-06	2006-07	2007-08	CARG (%)*
▪ Liquid bulk	516	477	629	661	659	6.31
▪ Dry bulk						
- Mechanical	208	293	286	252	285	8.19
- Conventional	577	657	736	758	923	12.46
▪ Break bulk	264	182	221	205	267	0.28
▪ Container	112	196	199	176	212	17.29
Total	1677	1805	2071	2052	2346	8.75

2.2.5 Average DWT size of vessels (in tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	56154	54502	48180	49309	54546
▪ Dry bulk					
- Mechanical	63719	63811	64658	64629	64741
- Conventional	39568	40250	41274	40596	40257
▪ Break bulk	13274	13129	13089	17439	12487
▪ Container	14855	17379	17800	19910	19345
Overall	41876	42623	41337	42303	42195

2.2.6 Average Parcel size of vessels

(in tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	34881	32213	27863	29052	31261
▪ Dry bulk					
- Mechanical	55970	53247	53727	53235	52697
- Conventional	29546	26634	28320	28352	28214
▪ Break bulk	7082	5649	6004	7660	6334
▪ Container	2506	3216	3168	4538	5343
Overall	28435	27769	26909	27523	27487

2.2.7 Average turn round time of vessels

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	2.19	2.09	2.40	2.51	2.59
▪ Dry bulk					
- Mechanical	3.79	3.07	3.54	3.12	3.60
- Conventional	4.33	4.54	5.67	5.18	5.32
▪ Break bulk	4.19	4.48	4.76	4.97	5.15
▪ Container	0.60	0.43	0.55	0.58	0.74
Overall	3.33	3.20	3.80	3.65	3.91

2.2.8 Average Pre-berthing detention to vessels

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	0.66	0.62	0.85	0.94	0.93
▪ Dry bulk					
- Mechanical	1.58	1.04	1.30	0.93	1.17
- Conventional	0.53	0.94	1.40	1.17	1.45
▪ Break bulk	0.87	0.84	0.82	0.79	1.02
▪ Container	0.08	0.03	0.08	0.06	0.13
Overall	0.75	0.76	1.03	0.93	1.10

2.2.9 Average Stay at berth

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	1.41	1.25	1.43	1.45	1.54
▪ Dry bulk					
- Mechanical	2.09	1.90	2.11	2.06	2.31
- Conventional	3.57	3.46	4.11	3.86	3.71
▪ Break bulk	3.21	3.53	3.81	4.05	4.00
▪ Container	0.43	0.33	0.39	0.44	0.53
Overall	2.45	2.32	2.63	2.59	2.67

2.2.10 Average working time

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	1.01	1.00	1.03	1.04	1.15
▪ Dry bulk					
- Mechanical	1.38	1.08	1.20	1.15	1.23
- Conventional	2.99	2.86	3.28	3.09	2.90
▪ Break bulk	2.66	2.83	3.14	3.35	3.23
▪ Container	0.31	0.24	0.25	0.32	0.38
Overall	1.95	1.79	2.00	1.98	2.01

2.2.11 Average non-working time

(No. of days)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	0.40	0.35	0.40	0.40	0.39
▪ Dry bulk					
- Mechanical	0.71	0.82	0.92	0.91	1.08
-Conventional	0.58	0.59	0.82	0.76	0.81
▪ Break bulk	0.55	0.70	0.67	0.70	0.77
▪ Container	0.12	0.09	0.14	0.12	0.15
Overall	0.50	0.52	0.63	0.60	0.66

2.2.12 Average output per ship berthday

(Tonnes)

	2003-04	2004-05	2005-06	2006-07	2007-08
▪ Liquid bulk	25131	23934	19565	20090	20484
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3.2 Traffic Projections:

3.2.1 As per the projections assessed by the Port, the traffic through the Port is likely to touch 82.2 MTPA by 2011-2012.

Traffic projections as per Working Group Report of the port sector

Estimated cargo throughput for 4 years i.e. upto 2011-12

(In million tonnes)

Cargo	2011 - 12	Cargo	2011 - 12
POL		Steel products and Pig iron	1.00
- Crude	15.00	Foodgrains including Soya	1.20
- LPG	1.00	Alumina & Caustic Soda	4.50
- POL products	8.00	RCL Cargo	1.40
- Transshipment	--	LAM Coke and other Coke	1.00
Sub-total	24.00	Others	7.60
Iron ore & Pellets	17.30 (1.60 Conv.)	Containers	
Coking coal	6.50	- Tonnage	7.20
Thermal coal	3.00	- TEUs	(0.60)
Steam coal	2.50		
Fertilizers	3.50	Grand Total	82.20
Fertilizers raw-materials (dry + liquid)	1.50	Assessed traffic at M.P.Bs	34.30

* (excluding iron ore / POL / CFL cargo and Container cargo)

3.2.2 Traffic projections as per Sethusamudram Ship channel project report

In a recent project report prepared by M/s.L&T Rambol for assessing the feasibility of Sethusamudram Ship channel project, the following traffic projections have been indicated under moderate and optimistic scenario:

(In million tonnes)

Cargo	MODERATE				OPTIMISTIC			
	2009	2010	2011	2012	2009	2010	2011	2012
Iron ore	11.3	11.5	11.7	11.9	11.6	11.8	12.1	12.3
FRM	1.96	2.0	2.1	2.1	2.1	2.1	2.1	2.1
POL	29.6	31.3	33.1	34.9	31.6	33.6	35.7	37.9
Coal	16.1	17.2	18.3	19.4	17.3	18.6	19.9	21.2
Other cargo	9.1	9.6	10.2	10.7	9.9	10.5	11.1	11.8
TOTAL	68.06	71.6	75.4	79.0	72.5	76.6	80.9	85.3
(Excluding POL and Iron ore)	(27.16)	(28.8)	(30.6)	(32.2)	(29.3)	(31.2)	(33.1)	(35.1)

3.2.3 Traffic projections as per N.M.D.P. (March, 2006)

In a recent report prepared by the Ministry for assessment of traffic to firm up the schemes under National Maritime Development programme, the following projections have been indicated in respect of Visakhapatnam Port for the year 2011-12.

(In million tonnes)

Commodity	Projections 2011-12
P.O.L.	20.00
Iron ore	22.00
Coal	12.00
Fertilisers and Raw materials	4.00
Steel	1.50
Food grains	1.00
Chemicals and other liquids	1.00
Other Cargoes	11.50
Container cargo	9.00 (0.75 TEUs)
TOTAL	82.00
Traffic excluding Iron ore, POL, CFL cargo and Container	34.70

3.3 Incremental Traffic

The present throughput of 28.79 M.T. at M.P.B's is expected to increase to 34.30 MT, as per the indications assessed by the Port and 35.10 MT as per the projections indicated in Sethusamudram Ship channel project.

The incremental traffic at Multi-purpose berths under different scenarios are summarized below:
(In million tonnes)

Description	As per		
	NMDP	Sethusamudram Project report	V.P.T.
Projected traffic at MPB's by 2011-12 (Excluding Iron ore & POL, Container cargo & Other liquids)	34.70	35.1	34.30
Anticipated Incremental traffic	5.91	6.31	5.51

It is seen from the above that even based on the pessimistic scenario, the incremental traffic is 5.51 million tonnes. This increase is foreseen in respect of the following cargoes.

Cargo	Present throughput	(million tonnes) 20011 - 12
Alumina	1.16	4.00
Iron ore (At MPB)	4.82	1.60
RCL cargo	1.09	1.40
Steel products	0.61	1.00
Fertilisers & raw dry (other than CFL)	3.44	5.00
Others	5.48	9.80
Coking Coal	7.46	6.50
Thermal & Steam coal	4.73	5.00
TOTAL	28.79	34.30

For handling additional volumes of Alumina, fertilizers and coal schemes have been conceptualized which include installation of Shiplside mechanized facility at W.Q.7, construction of W.Q.8 berth for Alumina exports. Installation of integrated mechanized handling facilities for coking coal, steam coal, thermal coal, iron ore and fertilizers, liquid cargoes such as edible oils, bio-diesel, chemicals etc.

As such to bridge the gap between demand & supply in respect of cargoes (Other than Iron ore, POL, Alumina, coal, fertilisers & Other liquids), there is a need to construct one Multi-purpose berth at Inner harbour.

As such, construction of an additional M.P.B. in Inner harbour to bridge the gap is proposed on B.O.T. basis.

Keeping in view the above, the following cargo profile has been considered for the berth.

(In lakh tonnes)

Commodity	Quantity		
	1 st to 3 rd year	4 th to 7 th year	7 th year onwards
C.P. Coke	4.00	5.40	7.49
LAM Coke	4.00	5.40	7.49
Steel	2.00	2.70	3.74
Granite blocks	1.00	1.50	2.08
TOTAL	11.00	15.00	20.80




CHAPTER-4

SITE INFORMATION

4.1 Climate and Meteorological conditions

a) Climate

The Climate of this region is governed by its location in the tropics and the monsoons. The climate of the southeast coast of Bay of Bengal is characterized by the recurring seasonal monsoons which divide the year into four seasons as follows:

- The North-East monsoon period is from the end of November to the end of February with predominantly north-easterly winds. Cyclones are frequent during November.
- The pre-monsoon period is from March to May, usually the beginning of the hottest period of the year, when the winds shifted in south-westerly direction, cyclones are frequent during May.
- South-West monsoon period falls between May and October with predominantly South-Westerly winds, cloudy weather and frequent rains.
- The post-monsoon period is from the middle of October to the end of November with variable weather and witnesses cyclones with relatively greater frequency.
- The climatic division is, of course, not absolute and there is some overlap between seasons.

b) Temperature

The annual mean maximum temperature is 30°C and the annual mean minimum temperature is 24.3°C. The highest temperature is recorded in May and June and the lowest in December and January. The highest temperature recorded was 38°C in May and the lowest temperature recorded was 24.3° in January for the year 2007.

c) Relative Humidity

The humidity is comparatively high and fairly uniform throughout the year. The annual mean value of daily relative humidity recorded varies from 72% to 76%. Highest recorded value is 81% and lowest recorded value is 64%.

d) Rainfall

The rainy season persists during the south-west monsoon and also during North-East monsoon. September and October are the wettest months of the year with an average rainfall of 167.3 mm and 259.3 mm respectively. The average annual rainfall is about 973.6 mm. The average number of rainy days per year is 50.

-e) Wind

The predominant direction of wind is South-West and North-East, for most of the time. The maximum wind speed recorded is 110 KMPH.

f) **Cyclones**

Cyclones are common to occur in the Bay of Bengal.

Average number of cyclones occurring at Visakhapatnam is 3 to 4 per year. Cyclonic storms and depressions occur with greatest frequency in August, October and November generally.

g) **Visibility**

Visibility is good throughout the year as fog is infrequent at sea in all seasons. Reduction in visibility is mostly due to heavy rainfall during the South-West monsoon. The highest monthly average duration recorded of fog is 0.1 day in some months from December to May.

4.2 **Oceanographic Data**

a) **Tides**

Highest w.r.t. datum

Highest high water recorded (Nov. 2007) -	2.06 M
Mean high water level spring -	2.06 M
Mean high water level neap -	1.50 M
Mean sea level -	0.80 M
Mean low water level spring -	-0.16 M
Mean low water level neap -	+0.50 M
Chart datum (CD) -	0.00 M
Lowest low water recorded (March 2007) -	(-)0.39 M

Note: During the 'tsunami' occurred in December 2004 the max. & min. levels of sea water have varied between a max. of +3.0 m to a min. of -1.0 m.

b) **Waves**

Although waves of over 1.5 M in height may occur, pre-dominantly in South-Westerly direction, for 22% of the time outside of the Outer Harbour, the location of the proposed extension is inside the Inner Harbour which is very well protected from waves outside of the Outer Harbour. Therefore, no wave disturbance is expected at the proposed site.

c) **Currents**

Currents in the Bay of Bengal are seasonal and are mainly due to South-West and North-East monsoons. From February to June offshore currents flow towards the North-East and from August to December towards South-West at velocities ranging from 0.5 to 1 knot in the Outer Harbour.


d) **Littoral Drift**

There is a strong littoral drift of sand northwards from March to September. Maximum amount of drift takes place from May to August when the waves are the highest. It is believed that the drift is

largely confined to a zone within 200m of the shore and is within the 6m contour. The quantum of annual maintenance dredging carried out in 2005-2006 was 0.541 million cubic meters.

4.3 Geo-technical Conditions

The results of soil investigation carried out recently in the vicinity of the proposed WQ-6 berth was carried out by Visakhapatnam Port Trust are appended to this report. The concessionaire shall under take detailed soil investigations at project site for the detailed design purpose before hand.



CHAPTER-5
EVALUATION OF THE LAYOUT

Drawing no. VPT/1/06 depicts the most suitable lay out for the proposed extension. This lay out gives maximum flexibility for accommodating 1 No of 195m LOA vessel at WQ.6 berth of 255m length. Out of the 255 m berth length contemplated a berth length of 40m was already constructed with steel sheet pile wall type of construction designed for (-) 12.00m dredge depth as a part of other berth completed recently. The remaining length of 215m is to be now constructed and necessary strengthening measures to the already built length shall be taken up to cater to the envisaged dredge depths of (-) 14.00 m. The width of the back up area available from the front edge of the proposed berth to the existing compound wall of M/s. NALCO is 60.00m (approximate). A two-lane road with drain has already been formed along with the construction of adjacent WQ7 and this drain is to be extended further behind the WQ6 berth. The effective width of back up area available from the drain to the front end of the proposed berth would be 40.00 m. after deducting the area for roads and drains. Thus the area immediately behind the berth is approximately 10,000sq.m. The general layout of Visakhapatnam Port Trust is enclosed vide Drg.No.VPT/04/06.

In view of limitation of the backup area behind the proposed berth, an area of 12.20Acres of land required for cargo storage has been identified at north of port connectivity road (Fly over) at about 3 k.m away from the proposed W.Q-6 berth location. The location of the area is shown in Drg.No. VPT/03/06.

Providing of railway lines to and fro in the storage area proposed to be allotted at North of Port connectivity road is found feasible for accommodating half rake of wagons.

The VPT's land required for the purposes as aforesaid for storage, receipt, dispatch, transportation of cargo etc., will be allotted as per the payment terms & other terms and conditions in force as per Govt. guidelines and land policy for allotment of land.



CHAPTER-6

STUDY OF ALTERNATIVE PROPOSALS

6.1 Alternative berth designs

In line with the development of the most suited layout was for the extension of the Northern arm of the inner harbour for which a feasibility was established and that 3 berths out of 4 berths were completed and commissioned, for the proposed berth WQ--6 three alternative designs are studied.

The existing ground level along the proposed berth and at their back up areas is around +3.5 offering excellent land based access for construction equipment without having resort either to a floating equipment or to that suitable for operations in tidal zone except for carrying out dredging both of which characterized a marine construction in the absence of land based access.

There is a considerable difference in cost as well as construction time between a land based construction and the marine construction. The land-based construction is less expensive and quicker. Therefore, the alternative construction work principally guided by the advantage by the site conditions and the emphasis focused on keeping the berth construction a land based operation.

Considering the loading and importance of the structure, as well as the geo-technical data available a system of RCC diaphragm with retaining structure and pile anchored & socketed deep enough into the hard rock is desirable, which is independent of the soil unlike the flexible type of structure which is entirely dependent on the soil conditions.

6.2. Basic Design Criteria

Highest w.r.t. datum

Highest high water recorded (Nov. 2007) -	2.06 M
Mean high water level spring -	2.06 M
Mean high water level neap -	1.50 M
Mean sea level -	0.80 M
Mean low water level spring -	-0.16 M
Mean low water level neap -	+0.50 M
Chart datum (CD) -	0.00 M
Lowest low water recorded (March 2007) -	(-) 0.39 M

Note: During the 'tsunami' occurred in Dec. 2004 the max. & min. levels of sea water varied between a max. of +3.00m and a min. of -1.00 m.

- ii) Water Depth at Berths : Initially (-) 14.00m below CL.
- iii) Berth Length
 - The berth length is 255m to accommodate 195m LOA and 32.2 m beam vessels.
- iv) Continuous back -up.
- v) Design surcharge load 5T/m²

- vi) Unrestricted movement of 100T capacity crawler crane.
- vii) 20 T capacity grab un-loaders/loaders with rail gauge of 10 M/60T harbour mobile cranes.
- viii) All forces according to IS 4651, commensurate with 80,000 DWT vessels.

6.3. Diaphragm wall with Anchor Diaphragm wall and three rows of cast-in-situ bored piles.

This option envisages construction of front RCC diaphragm wall, three rows of RCC cast-in-situ bored piles and anchor diaphragm wall. This type of construction consists of 1000mm Ø RCC cast in situ bored piles and RCC retaining diaphragm wall of size 4000mm x 1000mm and anchor diaphragm wall of size 4000mm x 750 mm @ 4.0m c/c. This wall is to be designed to withstand the imposed loads. This diaphragm wall is to be provided for 215m length. The cast-in-situ bored piles are to be provided for 215m length of the berth and are to be spaced @4000mm. The piles, RCC retaining diaphragm wall and anchor diaphragm wall is to be connected through RCC super structure, imparting considerable rigidity to the entire structure. The RCC deck structure shall consist of hollow RCC box type deck filled with granular fill and asphalt concrete pavement. The deck shall provide a suitable platform for the efficient operation of the material handling equipment. The sketch showing the part typical plan and cross section of alternative no.1 is enclosed (Drg.No:VPT/5/2006).

6.4. Concrete T-Diaphragm wall with piled anchorage (Vertical and Racker piles)

This option envisages construction similar to that adopted in the construction of EQ7 berth. This types of structure consists of front RCC T-Diaphragm wall of size 3,000mm x 3000mm x 600mm panels T-shaped in the front face of the berth. This wall is to be designed to withstand the imposed forces. The diaphragm is to be constructed over a length of 215m two rows of RCC vertical piles of 850 Ø and racker piles of 700 Ø along the entire length of the berth structure are to be provided at a spacing of 3m center to center in a staggered pattern in order to resist the pull from the piles and from the deck slab the deck structure shall consists of hollow cellular deck filled with sand. This type of structure will have considerable rigidity and as a result of the rigid tie back in the form of vertical and racker piles whatever small movement at the top level of the structure will be prevented. Because of the compressive forces in the racker piles considerable magnitude of the associated up-lift forces are to be expected in the vertical piles. These up-lift forces must be countered at worst by the contribution of only the dead load to the vertical piles and socketing into the hard rock to sufficient length and if found necessary sufficient pre-stressed rock anchoring of the vertical piles must be resorted to. The width of the platform shall be 22.5m to suit to the neighbouring berths. Pile rake of 1 In 2 .5 and 1 In 3 are normally adopted with cast-in-situ bored type of construction due to ease of construction and less cost. The sketch showing the part plan and cross section of Alternative-II is enclosed (Drg.No: VPT/6/2006).

6.5. Concrete Diaphragm wall with vertical piles and pre-stressed rock anchors.

This type of construction consists of front RCC 'T' diaphragm wall of side 3600mm x 3900mm x 600mm panels T-shape in the front face of the berth. This wall is to be designed to with stand the imposed forces to with stand such imposed forces, the pre-stressed rock anchors are provided connecting these anchors to T-diaphragm wall at tope and fixing the anchors only pre-stressed with adequate fixing length into the rock at other end. The diaphragm wall shall be constructed over a length of 215m. Two rows of RCC cast-in-situ bored vertical piles spaced at 3.6m center to center connected to the front RCC T-diaphragm wall through a RCC slab imparting considerable rigidity to the entire structure. As a result of the rigid tie back at the top front diaphragm wall is almost prevented from moving outward under the pressure of to retain soil. The RCC deck structure shall consist of hallow RCC box frames filled with river sand connects diaphragm wall and the piles. The deck shall provide a suitable platform for the efficient operation of the material handling equipment. The sketch showing the part plan and cross-section of Alternative-III is enclosed (Drg.No: VPT/7/2006).

6.6. Comparison of alternatives

The three technically acceptable design alternatives can be compared with respect to the cost of construction, time for construction and based on the technical superiority and environmental friendliness.

(Cost in Lakhs)

Options → Descriptions ↓	Vertical Pile and retaining diaphragm wall with anchor diaphragm wall	T-diaphragm wall with vertical and racker piles	T-Diaphragm wall with piles and rock anchors
Dismantling of existing structures like compound wall, existing mooring dolphin, C.C.Pavement blocks	10.10	10.10	10.10
Development of Back up area including hard surfacing, drainage	418.81	418.81	418.81
Construction of Berth (255 Mtrs.)	3181.97	3702.69	3563.90
Berth fixtures	50.13	50.13	50.13
Water supply	15.00	15.00	15.00
Dredging	270.29	270.29	270.29
Ground improvement for the back up area	257.55	257.55	257.55
	3928.99	4368.57	4261.01
Total Civil Structures in Crores	42.04	47.24	49.33

The front T-diaphragm wall with combination of vertical and racker piles most suitable for the proposed extension to the northern arm in view of the keeping in view similar soil condition to that of EQ7, method of execution comparable cost with the other alternatives and established technically acceptable alternative for the soils existing in the vicinity and similar to the one adopted for EQ7 Berth and is operating successfully with equipment.

6.7. Conceptual planning and development of back up areas.

6.7.1. Conceptual planning

The back up area of the berth is not adequate to store the cargo. Due to limitation of stacking area, behind the berth, the cargo storage shall be in the area proposed to be allotted within the vicinity of the berth. The bidder has to make adequate arrangements for transportation of cargo to the stack yard. In case of handling of import LAM Coke, mechanized unloading facilities like 2nos. 60T Harbour Mobile Cranes, shall be provided by the bidder. The cargo storage shall be at the area identified within the vicinity of the berth. There is no possibility of providing railway siding to the proposed berths.

The handling and storage of cargo shall take place essentially with semi mechanized integrated state of the art system i. e., Harbour Mobile Cranes.

While roads, general lighting, water supply, fire fighting system etc; will be common to all berth users these shall be deployed as required for each berth.

6.7.2 Development of back up area

(i) Dismantling

The following existing facility needs to be dismantled.

- a) Slope protection formed with AZ sheet piles for a length of 10m in continuation to the WQ7 berth.
- b) Dismantling of mooring dolphin in the dredging area.

(ii) General filling in back up area

At present the existing ground levels at the proposed site are at the elevations of about +3.5m CD and less. The back up area shown in the drawing will have to be raised to +3.56m with selected granular fill.

(iii) Peripheral road and lighting of roads

A two-line road exists along the periphery of the proposed berth back up area and is connected to the roads parallel to the S-4 conveyor and towards western sector. Adequate lighting has been provided to the peripheral road.

(iv) Customs Boundary

The proposed area is provided with the customs boundary wall and customs offices with gates exist at WQ5 berth on southern end and at northern end of the proposed WQ8 berth.



(v) Lighting of berths

To illuminate the WQ6 berth and the adjoining back up area 3nos of 30m high masts with 400W high-pressure sodium vapour floodlight fixtures have to be provided to achieve an average lux level of 25. Which is considered for such applications. The electrical load requirement will be to the order of 100KW and the load requirement of WQ8 will be fed through a feeder pillar located suitably which would receive power (415V, 3Ph, 50Hz) from the proposed sub station intended for WQ6, WQ7 and WQ8 berth. The incoming cable (500m length) from feeder pillar from its respective sub division and distribution of power from feeder pillar to various lighting loads would be by means of cables directly buried in the ground. Earthing in accordance with Indian Electricity rules and IS:3043 has to be provided for feeder pillars, high masts, cables, lands etc.

vi) Ground Improvement of Back up area

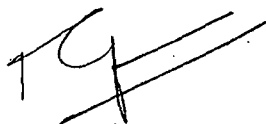
The ground is of low strength due to presence of very soft-to-soft clay layer extending upto thickness of the order of 20.0m. The loading of the ground in the present state would not only cause bearing capacity failure but also would be subjected to large uncontrolled settlements. As per the results of the soil investigations carried out at two locations, the initial shear strength of the clay layers varies from 1.0t/m^2 to 2.0t/m^2 only. Hence ground improvement with the preloading and use of vertical drains in the form of band drain shall be carried out, to achieve a bearing capacity upto 9.0t/m^2 .

7. Dredging

Since the construction of the WQ6 berth being the land based operation the dredging shall be commenced after completion of the construction of the front diaphragm wall, vertical racker piles and connected both with RCC deck. The dredging shall be carried up to (-) 14.00m CD with an over dredging allowance. A copy of drawing No. 1 of 1 dated 08.10.2007 showing the limits of dredging carried out under the scope of WQ-6 berth project is enclosed. As per the typical sub soil profile at the proposed site it is evident that only soft soil would be encountered while dredging within the range of the depth mentioned above and a suitable back hoe / grab dredger or standard cutter suction dredger would suffice for the purpose. The dredged material shall be disposed at the identified disposal ground in the open sea.

CHAPTER - 7
PROJECT DESCRIPTION

Berth length	255m
Size of vessel	195m LOA, 32.2m beam. Upto 205m Vessels can be accommodated subject to certain limitations.
Draft	12.50 m
Dredge depth	(-) 14.00 m
Back up area	Continuous backup area (10,000sq.m. existing) and ground improved to bearing capacity upto 9T/sq.m.
Surcharge load	5 T/sq.m.
Cranes	Harbour Mobile Cranes of 60 Tonne Capacity. 500 HP front end loaders 10 Tonne fork lift truck Unrestricted movement of 100t capacity crawler crane 20T capacity grab-unloaders / loaders with rail gauge of 10m.
Type of construction (Suggested)	T-Diaphragm wall with vertical and racker piles
Illumination	Sufficient (30m high mast towers on average lux level of 25)
Road and rail connectivity	Adequate facilities



CHAPTER-8

CAPITAL COST ESTIMATES AND IMPLEMENTATION SCHEDULE

8.1 The capital cost of the project is estimated at Rs.114.50 crores, the details of which are given below:

		(Rs.in Crores)
Descriptions ↓	Options →	T-diaphragm wall with vertical and racker piles
Dismantling of existing structures like compound wall, existing mooring dolphin, C.C.Pavement blocks		0.10
Development of Back up area including hard surfacing, drainage		4.19
Construction of Berth (255 Mtrs.)		37.03
Berth fixtures		0.50
Water supply		0.15
Dredging		2.70
Ground improvement for the back up area		2.57
Total (A) – Civil Structures		47.24
Mechanical Equipments		
2Nos 60Ton Harbour Mobile Cranes		43.57
2 Nos 500 HP front end loaders		4.62
1 No 10 ton Fork lift truck		0.32
Electrical works and lighting		1.00
Total (B) – Mechanical Equipment		49.51
Total cost (A + B)		96.75
Add: Contingencies @ 3%		2.90
		99.65
Add: Engineering Construction & supervision @ 5%		4.98
Total Cost		104.63
Upfront fee		
Cost of other facilities viz. lighting, Road, Drains & culvert etc. developed by VPT		1.39
Amount spent for infrastructure development		5.41
Total Upfront fee:		6.80
Total Capital cost including Upfront Fee		111.43
Add: 5% Miscellaneous cost on capital cost of cargo handling activity i.e. on civil and equipment cost		3.07
Grand Total		114.50

8.1 The cost of civil works is estimated on the basis of the available in house data and using the prevailing unit rates with suitable adjustments for comparable works.

8.2 Implementation schedule

The construction of the berth WQ6 can be completed in 24 months period from the date of award of the work. The 24 months time period is required as the construction of the main berth structure and other activities such as backup area development requires 18 months time period and dredging to follow after completion of structure with 6 months time period. The 24 months time period also includes detailed engineering, preparation of tender documents, scrutiny of bids and award of contract for execution of the work.

8.3 Project Management Consultancy:

For evaluation of the RFQ and RFP, and License agreement, it is proposed to engage Consultants.

8.4 Upfront fee:

Cost of facilities developed by VPT viz. dredging, back up area, road, drains, lighting etc.	Rs. 1.39 crores
Amount spent for infrastructure development	Rs. 5.41 crores
	<hr/>
	Rs. 6.80 crores

8.5 Land rentals for 50,000 Sqm and Backup area 10,000 Sqm:

Annual lease rental basis

- | | |
|--|----------------|
| ➤ 1 year rent as premium | Rs.0.62 crores |
| ➤ 1 year rent as advance | Rs.0.62 crores |
| ➤ 5 year rent as Security deposit
in the form of Bank guarantee | Rs.3.10 crores |
| ➤ 2% escalation every year on land rentals | |
| ➤ Refixation of land valuation for every 5 years by District Revenue Authorities and as approved by
TAMP. | |




CHAPTER - 9

OPERATION AND MAINTENANCE COST

The annual operation and maintenance expenditure for operating and maintaining the berthing facilities by the BOT operator is estimated at Rs. 19.18 crores as per the upfront tariff approved by TAMP for handling multipurpose cargoes viz. C.P. Coke, LAM Coke, Steel and Granite Blocks and notified vide Gazette notification no. 26 dated 24.02.2009.

Sl. No.	Particulars	Capital Cost	O&M Cost per annum	Basis
		(Rs. in Crores)		
I	OPERATION COST EXCLUDING BERTH			
1.1	Repairs & Maintenance on Civil Assets.			1% of the capital cost of civil assets
	a) Berth Apron & approach	0.29	0.01	
	b) Storage Yard	7.32	0.07	
	c) Buildings, Water Supply, Sewerage etc.	0.16	—	
1.2	Repairs & Maint. on Mech. Equipment			5% of the capital cost of mechanical and electrical equipment.
	a) 2 no.s Harbour Mobile cranes of 60 T capacity	47.12	2.36	
	b) 2 no.s 500 HP front end loaders	5.00	0.25	
	c) 1 no. 10 T fork lift truck	0.35	0.02	
	d) Power and lighting, communication	1.08	0.05	
	Total Repair and Maintenance		2.76	
1.3	Power cost		0.74	2.4 lakh units / annum/ hectare X 5 hectares @ Rs.6.20 ps.
1.4	Fuel cost			
	a) 2 no.s Harbour Mobile cranes of 60 T capacity		2.40	4000 hrs. X 83 ltrs. X Rs.36.08 ps per ltr. X 2 nos
	b) 2 no.s 500 HP front end loaders		0.35	4000 hrs. X 12 ltrs. X Rs.36.08 ps per ltr. X 2 nos
	c) 1 no. 10 T fork lift truck		0.14	4000 hrs. X 10 ltrs. X Rs.36.08 ps per ltr. X 1 no.
	Total Fuel cost		2.89	
1.5	Insurance			1% of gross fixed assets
	a) Civil assets	8.16	0.08	
	b) Mechanical and electrical assets	56.23	0.56	
1.6	Depreciation		5.60	As per Companies Act. 1956
1.7	License fees		0.62	As per DRA rates existing
1.8	Other expenses on Civil & Mech.	64.39	3.22	5% of gross fixed assets.
	Total – I (Operating cost excl. berth)		16.47	

II	OPERATING COST FOR BERTH		
2.1	Repairs & Maintenance on Civil Assets		
	Cost of construction of berth and upfront fee.	47.19	0.47
2.2	Insurance	47.19	0.47
2.3	Depreciation		1.77
	Total – II (Operating cost for berth)		2.71
	Total Operating cost (I + II)		19.18

CHAPTER – 10

ANNUAL REVENUE EARNINGS AND VIABILITY ANALYSIS

10.1 ESTIMATION OF REVENUE

The estimated revenue on account of berth hire, handling charges (includes cargo loading or unloading charges, as the case may be, transportation and wharfage etc.), storage charges and Miscellaneous charges to be accrued on the proposed facility is based on the upfront tariff approved by TAMP for handling multipurpose cargoes viz. C.P. Coke, LAM Coke, Steel and Granite Blocks and notified vide Gazette notification no. 26 dated 24.02.2009 and with an escalation of 5.46 % on tariff approved basing on 60% variation on WPI as communicated by TAMP vide their letter dt. 31.3.2009 is anticipated at Rs. 20.90 crores per annum for 1st year to 3rd years , Rs. 28.44 crores per annum for 4th year to 6th year and Rs. 39.54 from 7th year onwards based on the anticipated throughput of 1.1MTPA, 1.5 MTPA and 2.09 MTPA respectively is presented below.

Revenue estimation for 1st year to 3rd year:

Parameters considered:

Particulars	CP Coke	LAM Coke	Steel	G.Block
Throughput	396000	396000	198000	110000
Average GRT	18550	29000	11300	15000
Average Parcel size (tonnes)	24000	28000	10000	10000
Handling rate (tonnes)	10000	10000	4000	2500
No. of berth days	40	40	50	44
GRT hours	17808000	27840000	13560000	15840000

Revenue estimation

(Rs. in lakhs)

Cargo	HANDLING CHARGES	BERTH HIRE
C.P. Coke	327.85 (3.96 lakh tonnes X Rs. 82.79 per ton)	144.24 (178.08 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
LAM Coke	327.85 (3.96 lakh tonnes X Rs. 82.79 per ton)	225.50 (278.40 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
Steel (foreign)	392.56 (1.84 lakh tonnes X Rs. 213.35 per ton)	91.60 (113.09 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
Steel (Coastal)	17.92 (0.14 lakh tonnes X Rs. 128.03 per ton)	11.03 (22.51 GRT lakh hrs.X Rs. 0.49 ps /GRT/ hr.)
Granite blocks	362.58 (1.10 lakh tonnes X Rs.329.62 per ton)	128.30 (158.40 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
	1428.76	600.67
A) Total revenue on handing charges and Berth hire		2029.43
B) Storage charges: (11 lakh tonnes X 30% XRs. 9.07ps.)		29.93
C) Miscellaneous charges: (11 lakh tonnes X Rs.2.74 ps.)		30.14
TOTAL REVENUE (A + B + C)		2089.50 OR SAY 20.90 crores.

Revenue estimation for 4th year to 6th year:

Parameters considered:

Particulars	CP Coke	LAM Coke	Steel	G.Block
Throughput	540000	540000	270000	150000
Average GRT	18550	29000	11300	15000
Average Parcel size (tonnes)	24000	28000	10000	10000
Handling rate (tonnes)	10000	10000	4000	2500
No. of berth days	54	54	68	60
GRT hours	24040800	37584000	18441600	21600000

Revenue estimation

(Rs. in lakhs)

Cargo	HANDLING CHARGES	BERTH HIRE
C.P. Coke	447.07 (5.40 lakh tonnes X Rs. 82.79 per ton)	194.73 (240.41 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
LAM Coke	447.07 (5.40 lakh tonnes X Rs. 82.79 per ton)	304.43 (375.84 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
Steel (foreign)	535.51 (2.51 lakh tonnes X Rs. 213.35 per ton)	124.68 (153.92 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
Steel (Coastal)	24.33 (0.19 lakh tonnes X Rs. 128.03 per ton)	14.95 (30.50 GRT lakh hrs.X Rs. 0.49 ps /GRT/ hr.)
Granite blocks	494.43 (1.50 lakh tonnes X Rs.329.62 per ton)	174.96 (216.00 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
	1948.41	813.75
A) Total revenue on handing charges and Berth hire		2762.16
B) Storage charges: (15 lakh tonnes X 30% XRs. 9.07ps.)		40.82
C) Miscellaneous charges: (15 lakh tonnes X Rs.2.74ps)		41.10
TOTAL REVENUE (A + B + C)		2844.08 OR SAY 28.44 crores.

Revenue estimation from 7th year onwards:

Parameters considered:

Particulars	CP Coke	LAM Coke	Steel	G.Block
Throughput	751000	751000	376000	209000
Average GRT	18550	29000	11300	15000
Average Parcel size (tonnes)	24000	28000	10000	10000
Handling rate (tonnes)	10000	10000	4000	2500
No. of berth days	75	75	94	83
GRT hours	33390000	52200000	25492800	29880000

Revenue estimation

(Rs. in lakhs)

Cargo	HANDLING CHARGES	BERTH HIRE
C.P. Coke	621.75 (7.51 lakh tonnes X Rs. 82.79 per ton)	270.46 (333.90 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
LAM Coke	621.75 (7.51 lakh tonnes X Rs. 82.79 per ton)	422.82 (522.00 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
Steel (foreign)	746.73 (3.50 lakh tonnes X Rs. 213.35 per ton)	172.24 (212.64 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
Steel (Coastal)	33.29 (0.26 lakh tonnes X Rs.128.03 per ton)	20.72 (42.29 GRT lakh hrs.X Rs. 0.49 ps /GRT/ hr.)
Granite blocks	688.91 (2.09 lakh tonnes X Rs.329.62 per ton)	242.03 (298.80 GRT lakh hrs.X Rs. 0.81 ps /GRT/ hr.)
	2712.43	1128.27
A) Total revenue on handing charges and Berth hire		3840.70
B) Storage charges:(20.87 lakh tonnesX 30%XRs. 9.07ps.		56.79
C) Miscellaneous charges: (20.87 lakh tonnes X Rs.2.74ps)		57.18
TOTAL REVENUE (A + B + C)		3954.67 OR SAY 39.54 crores.

The financial viability has been worked out considering the capital costs of the berth, operations and maintenance cost and the revenue on account of berth hire, handling charges, storage charges and miscellaneous charges have been arrived as above with a time horizon of 30 years from the commencement of the construction of the berth. Based on discounted cash flow analysis, the IRR is 13.09%. Details are at Annexure-I.




CHAPTER - 11

ENVIRONMENTAL ASPECTS

11.1. General

Environmental pollution possibilities due to development of WQ.6 berth for handling bulk cargo has been considered in this chapter. The areas taken into account are given below and the same covers certain aspects of environmental considerations, which this facility could possibly constitute.

- Dust generation.
- Occupational aspects
- Noise generation.

11.2. Pollution Causable in Handling Bulk cargo.

The pollution due to bulk cargo handling can arise by the emission of dust in to the atmosphere from stacks and during system of handling. The other source of pollution is noise emanating from various machinery and equipment. Even though dust emanating during loading / unloading the same is not of toxic nature of otherwise hazardous, but can be avoided by effective control.

11.3. Dust Emission Limits

The dust emission limits shall be as per the National Ambient Air Quality standards given by the Central Pollution Control Board (CPCB)

11.4. Movement of bulk cargo:

The movement of bulk cargo, which is by dumpers/lorries, is relatively dust free and there would not any greater environmental impact excepting the emission of dry dust during transfer.

The possible impact, which can arise, is in transport of bulk cargo during un- loading from the ships. But by proper choice of the handling equipment and appropriate handling methods, the emission of dust can be reduced to insignificant levels. As can be seen, the choice of equipment and the design of the system ensure that the dust pollution is minimal. Thus overall impact of the bulk loading and movement will be kept within the permissible limits.

11.5. Noise Abatement

The handling equipment and the method of handling can cause uncomfortable levels of noise.

The noise levels can be maintained within the acceptable limits, with proper maintenance of the handling equipment and appropriate handling method.

ANNEXURE-I

CALCULATION OF FIRR FOR WQ-6

(Rs. in
crores)

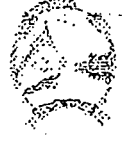
YEAR	CAPITAL COST	REVENUE				TOTAL REVENUE	OP& MAINT.	NET BENEFI TS	NET CASH INFLOW
		HAND LING	BERTH HIRE	STORAGE CHARGES	MISC. CHARGES				
1	55.25					0.00		0.00	-55.25
2	59.25					0.00		0.00	-59.25
3		14.29	6.00	0.30	0.30	20.89	11.81	9.08	9.08
4		14.29	6.00	0.30	0.30	20.89	11.81	9.08	9.08
5		14.29	6.00	0.30	0.30	20.89	11.81	9.08	9.08
6		19.48	8.14	0.41	0.41	28.44	11.81	16.63	16.63
7		19.48	8.14	0.41	0.41	28.44	11.81	16.63	16.63
8		19.48	8.14	0.41	0.41	28.44	11.81	16.63	16.63
9		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
10		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
11		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
12	56.23	27.12	11.28	0.57	0.57	39.54	11.81	27.73	-28.50
13		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
14		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
15		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
16		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
17		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
18		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
19		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
20		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
21		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
22	56.23	27.12	11.28	0.57	0.57	39.54	11.81	27.73	-28.50
23		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
24		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
25		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
26		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
27		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
28		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
29		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
30		27.12	11.28	0.57	0.57	39.54	11.81	27.73	27.73
Total	226.96	697.95	290.58	14.67	14.67	1017.87	330.68	NPV @12%	10.02
								IRR	13.09%

INWARD No. : 12

DATE

: 17-09-09

RECEIVED
17/09/09



विशाखपट्टणम पोर्ट ट्रस्ट / अभियंता विभाग
VISAKHAPATNAM PORT TRUST / ENGINEERING DEPARTMENT

ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

No. IENG/EE(PROJECTS)/WQ 6/Pt. VIII/213
Dt/2-9-2009.

✓ To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers, 13,
Mathew Road,
MUMBAI 400 004.

FAX NO. 9122-23649236

Santosh

File/Number. File is
located in cupboard
next to Chairman's room.

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 2 to RFP document
of the subject project.

Encl: Copy of Corrigendum - 2

Yours faithfully,


CHIEF ENGINEER

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA

FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No. IENG/EE(Projects)/WQ-6/
Dt. 12-9-2009.

CORRIGENDUM No - 2

SUB: DEVELOPMENT OF WQ-6 BERTH IN THE NORTHERN ARM OF INNER
HARBOUR OF VISAKHAPATNAM PORT FOR HANDLING DRY BULK
CARGO ON 'DBFOT' BASIS.

The following additions/ deletions made & tabulated below in the Respective Documents

In the MCA document

Sl No	Page No	Clause No	As Per Document issued		Deletion / Inclusion/ correction
1	45	7.2(e)	The Concessionaire may, at its cost, make alternate arrangements for adequate infrastructure facilities and utilities including Water, Electricity and Communication facilities necessary for the implementation, Operation and Maintenance of the Project;		This Clause is deleted
2.	46	--Nil--		--Nil--	<u>Clause No. 3.1.2</u> The Concessionaire hereby acknowledges and agrees that it is not entitled to any revision of Tariff or other relief from the Trust or any Government Instrumentality, except in accordance with the express provisions of Agreement. The Concessionaire further acknowledges and hereby accepts the risk of inadequacy, mistake or error of facts, assumptions or projections in the tariff order issued by TAMP and agrees that the Trust shall not be liable for the same in any manner whatsoever to the Concessionaire.
3.	11	1.1(a) Definition	Definition of "Debt Due" Line No-6 ----Period or any part of the Principal that had fallen due after the Termination Notice---		"Debt Due" Line No -6 ----Period or any part of the Principal that had fallen due prior to the Terminal Notice----




CHIEF ENGINEER



ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT



No. IENG/EE(PROJECTS)/WQ 6/Pt. VIII /19
Dt. 8-9-2009.

To
M/s. ABG Infralogistics Ltd.,
5th Floor, Bhupati Chambers, 13,
Mathew Road,
MUMBAI 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Ir Dt. 17-8-09.

Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject
project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 1 to RFP document
of the subject project.

Encl: Copy of Corrigendum - 1

Yours faithfully,


CHIEF ENGINEER
8/9/09

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com



VISAKHA PATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ -6/Pt. VII
Dt. 8-9-2009.

CORRIGENDUM - 1

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on
'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VII/ 153 D.11-8-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against serial numbers 4 to 7 and 9 of the schedule at page 6 under clause 1.3 of Introduction of RFP document are modified as indicated below:

	Event Description	Existing date	Modified date
4	Pre-Bid Meeting - 2	15-10-2009	Deleted
5	Bid Due Date	07-11-2009	15-10-2009 up to 11.00 AM
6	Opening of Bids	07-11-2009	16-10-2009 after 11.30 AM
7	Letter of Award (LOA)	06-12-2009	17-11-2009
9	Signing of Concession Agreement	06-01-2010	01-12-2009


CHIEF ENGINEER

INWARD No. : 9

DATE : 11-09-09

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT

ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001



No. IENG/EE(PROJECTS)/WQ 6/Pt. VIII /19
Dt. 8-9-2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers, 13,
Mathew Road,
MUMBAI 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Lr Dt. 17-8-09.

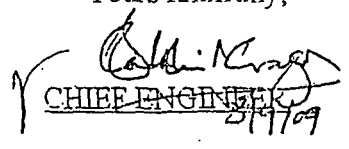
Please refer to your letter cited.

As requested in your letter under reference cited, the RFP document for the subject project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 1 to RFP document of the subject project.

Encl: Copy of Corrigendum - 1

Yours faithfully,


CHIEF ENGINEER
8/9/09

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

VISAKHAFTNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ -6/Pt. VII
Dt. 8 -9-2009.

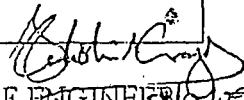
CORRIGENDUM - 1

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on 'DBFOT' basis - Reg.

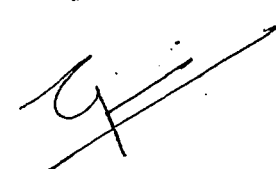
Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VII/ 153 D.11-8-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against serial numbers 4 to 7 and 9 of the schedule at page 6 under clause 1.3 of Introduction of RFP document are modified as indicated below:

	Event Description	Existing date	Modified date
4	Pre-Bid Meeting - 2	15-10-2009	Deleted
5	Bid Due Date	07-11-2009	15-10-2009 up to 11.00 AM
6	Opening of Bids	07-11-2009	16-10-2009 after 11.30 AM
7	Letter of Award (LOA)	06-12-2009	17-11-2009
9	Signing of Concession Agreement	06-01-2010	01-12-2009


CHIEF ENGINEER





3

09.09.09

VISAKHAPATNAM PORT TRUST/ENGINEERING DEPARTMENT

ISO 9001 PORT
ISO 14000 PORT
OHSAS 18001



No. IENG/EE(PROJECTS)/WQ 6/PL VII/198
Dt 8-9-2009.

To
M/s. ABG Infralogistics Ltd.,
5TH Floor, Bhupati Chambers, 13,
Mathew Road,
MUMBAI 400 004.

✓
FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.
Ref: M/s. ABG Infralogistics Ltd., Lr Dt 17-8-09.

Please refer to your letter cited

As requested in your letter under reference cited, the RFP document for the subject project work was issued to you.

In this context, please find enclosed here with a copy of Corrigendum 1 to RFP document of the subject project.

Encl: Copy of Corrigendum - 1

Yours faithfully,

CHIEF ENGINEER
8/9/09

Visakhapatnam Port Trust, Visakhapatnam-530 035, Andhra Pradesh, INDIA
FAX: 0891-2565023; Grams: "PORTRUST" E-mail: info@vizagport.com

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No: IENG/EE(Projects)/WQ -6/Pt. VII
DL 8 -9-2009.

CORRIGENDUM - 1

Sub: Development of Western Quay - 6 (WQ -6) berth in the Northern Arm of
Inner Harbour of Visakhapatnam Port for handling dry bulk Cargo on
'DBFOT' basis - Reg.

Ref: This office letter No. IENG/EE(Projects)/WQ-6/Pt. VII/ 153 D.11-8-2009

In continuation to this office letter cited, it is to inform that the dates mentioned against
serial numbers 4 to 7 and 9 of the schedule at page 6 under clause 1.3 of Introduction of RFP
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9	Signing of Concession Agreement	06-01-2010	01-12-2009



CHIEF ENGINEER

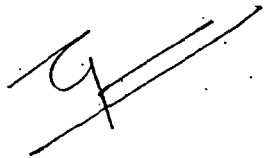
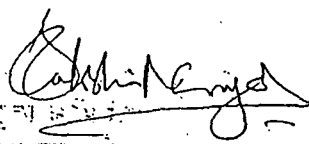
VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM – 530 035
ANDHRA PRADESH, INDIA

Request For Proposal

for

PPP Project

DEVELOPMENT OF WESTERN QUAY (WQ-6) BERTH IN THE
NORTHERN ARM OF INNER HARBOUR OF VISAKHAPATNAM PORT
FOR HANDLING DRY BULK CARGO ON DESIGN, BUILD, FINANCE,
OPERATE AND TRANSFER (DBFOT) BASIS



For and on behalf of
YOUNG SANGLI
Visakhapatnam Port Trust

VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM - 530 035
ANDHRA PRADESH, INDIA

LETTER OF INVITATION

Dated *****

To .

Sub: Development of Western Quay (WQ-6) berth in the Northern Arm of Inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis (The Project)

Dear Sir,

Pursuant to your application in response to our Request for Qualification document (the "RFQ"), you were shortlisted as a Bidder, in accordance with the provisions of the RFQ for the aforesaid Project. We acknowledge your remittance of Rs. 10,000 for procuring the Request for Proposal document (the "RFP"). The RFP is enclosed.

You are requested to participate in the Bid Stage with the objective of submitting your financial proposal (the "Bid") for the aforesaid Project in accordance with the RFP.

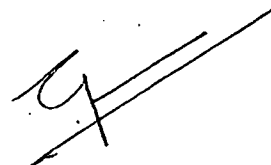
Please note that the Visakhapatnam Port Trust reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever.

Thanking you,

Yours faithfully,

CHIEF ENGINEER

(*****)



GLOSSARY

Authority	As defined in Clause 1.1.1
Bank Guarantee	As defined in Clause 2.20.1
Bid(s)	As defined in the Disclaimer
Bidders	As defined in Clause 1.2.2
Bidding Documents	As defined in Clause 1.1.7
Bid Due Date	As defined in Clause 1.2.2
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.4
Bid Stage	As defined in Clause 1.2.1
[DBFOT]	As defined in Clause 1.1.1
Concession	As defined in Clause 1.1.5
Concession Agreement	As defined in Clause 1.1.2
Concessionaire	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.1.14
Demand Draft	As defined in Clause 2.20.2
Estimated Project Cost	As defined in Clause 1.1.4
Feasibility Report	As defined in Clause 1.2.3
Government	Government of India
LOA	As defined in Clause 3.3.5
Member	Member of a Consortium
PPP	Public Private Partnership
Project	As defined in Clause 1.1.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer
RFQ	As defined in Clause 2.1.2
Selected Bidder	As defined in Clause 3.3.1

The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein. The words and expressions beginning with capital letters and not defined herein, but defined in the RFQ, shall, unless the context otherwise requires, have the meaning ascribed thereto therein:

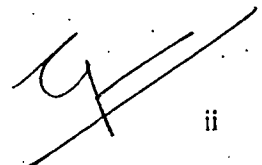



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DISCLAIMER

The information contained in this Request for Proposal document (the "RFP") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority (Visakhapatnam Port Trust) or any of their employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

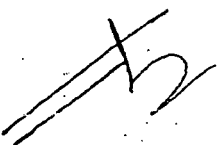
This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers pursuant to this RFP (the "Bid"). This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, especially the [Feasibility Report], may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.



The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness

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or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Bid Stage.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.





VISAKHAPATNAM PORT TRUST

1. INTRODUCTION

1.1. Background

1.1.1 The Visakhapatnam Port Trust (the "Authority"), one of the 12 Major Ports in India, is situated on the east coast of India at a latitude of 17° 41' N and longitude of 83° 18' E. The port plays a vital role in fostering the country's foreign trade and economic development and is a catalyst for a rapid industrialization of the hinterland by providing marine infrastructure facility to cater to the growing needs of the trade.

The port is well connected with other parts of the country by rail and road network. The port is presently has 18 berths plus one mooring facility including two more berths built by Licensee M/s Vizag Seaport Ltd. in Inner Harbour to cater to ships up to 45,000 DWT and 6 berths plus one mooring facility in the Outer Harbour to cater to ships upto 1,50,000 DWT.

The cargo profile of the port comprises Iron Ore, Manganese, Thermal Coal, Coking Coal, Lime Stone, Marine Products, Fertilizers, Fertilizers Raw Materials, Food Grains, Granite, Timber Logs, Crude Oil, Petroleum Products, LPG, Phosphoric Acid, Liquid Ammonia, Caustic Soda and various other bulk, break bulk and containerized cargo.

The Authority has a fleet of cargo handling equipment to serve the trade. The Port owns a railway network of about 200 km of broad gauge track connected to two major zonal railways viz. East Coast Railway and South Central Railway. The port of Visakhapatnam emerged as the leading port by handling largest volume of cargo amongst the Major Ports of the country since 2000-01 for a period of seven years. During 2008-09, the total traffic handled by the port was 63.91 million tonnes.

Visakhapatnam port has been accredited with Quality, Environmental and occupational Health and Safety Management systems ISO - 9001, ISO - 14001 and OHSAS - 18001. This port is also ISPS compliant.

To cater to the future growing traffic needs, the Authority has decided to undertake development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo (the "Project") through public private participation (PPP) on Design, Build, Finance Operate and Transfer ("DBFOT") basis and has decided to carry out the bidding process for selection of the bidder to whom the Project may be awarded.

Sl. No.	Name of the Project	Capacity	Estimated Project Cost
1	Development of Western Quay (WQ-6) berth in the Northern Arm of inner harbour of Visakhapatnam port for handling dry bulk cargo	2.08 million tonnes per annum	Rs. 114,50,00,000 (Rupees One hundred fourteen Crores and Fifty Lakhs including the cost of mechanical equipment)

1.1.2 The Selected Bidder, who is either a company incorporated under the Companies Act, 1956 or undertakes to incorporate itself as such prior to execution of the concession agreement (the "Concessionaire"), shall be responsible for [designing, engineering], financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of the concession agreement (the "Concession Agreement") to be entered into between the Selected Bidder and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.

1.1.3 The scope of work will broadly include planning, engineering, designing, financing, construction, development, operation and maintenance thereof of WQ-6 berth for handling dry bulk cargo such as C.P.Coke, LAM Coke, Steel and Granite Blocks and the operation & maintenance thereof. Petroleum products will, however, not be permitted to be handled at this facility. Based on the traffic demand, it is expected that the proposed facility will enable handling of about 1.1 million tonnes of the above dry bulk cargo per annum to start-with and about 2.08 million tonnes per annum ultimately, in phases. The major components of work are indicated below:

Plan, design and construct 255m length of berth (including dismantling the existing 40m berth length already constructed as part of WQ7) to cater to the berthing requirement of 14.00m draft vessels.

- Carry out dredging in front of the berth to (-) 12.10m initially, (-) 13.50m and (-) 16.10m CD in phases in future from the present ground level / soundings.
- Procure and install suitable handling equipment at the berth and develop stacking area on about 12.20 acres of land, (at a distance of 3 km from the proposed berth) to be made available on long-term license for the concession period of 30 years.
- Develop back up area, water supply, area illumination, fire fighting and road facilities required including development of the land at the berth as well at the stack yard.
- Provide mechanical equipment viz., two Nos. of 60 Ton Harbour Mobile Cranes, 2 Nos. of 500 HP front end loaders, 1 no. of 10 T. fork lift truck etc., electrical works and lighting.
- Develop utilities and services such as communication, office accommodation, etc required for operation of the berth.
- Compliance with environmental laws during implementation i.e. construction, operation and maintenance of the Project.
- The planning, design and engineering of the project by the Bidder shall conform to the technical specifications / preliminary design criteria and standards pre-determined by the Authority and as set out in the Concession Agreement to be entered into between the Concessionaire and the Authority.
- The operation and maintenance of the Project.

1.1.4 The estimated cost of the Project (the "Estimated Project Cost") has been specified in Clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.

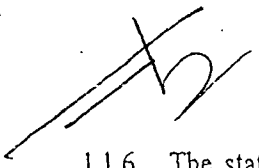
1.1.5 The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "Concession").

¹ All provisions within square parenthesis may be suitably modified based on project-specific requirements.

² Wherever asterisk is used, it should be substituted by project-specific details prior to issue of RFP.

³ If public sector companies are to be allowed to bid, this Clause may be modified accordingly.

⁴ If the project agreements do not provide for any obligations or liabilities that arise from or are related to capital costs of the project, this column may be omitted with the approval of PPPAC.



1.1.6 The statements and explanations contained in this RFP are intended to provide a proper understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by Authority.


1.1.7 The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP (collectively the "Bidding Documents"), as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms.


1.2 Brief description of Bidding Process

1.2.1 The Authority has adopted a two-stage process (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project. The first stage (the "Qualification Stage") of the process involved qualification of interested parties / Consortia in accordance with the provisions of RFQ. At the end of this stage, the Authority shortlisted 6 (Six) suitable pre-qualified Applicants who were eligible for participation in the second stage of the Bidding Process (the "Bid Stage") comprising Request for Proposals.

The Government has issued guidelines (see Appendix-V of RFP) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process. The Authority shall be entitled to disqualify an Applicant in accordance with the aforesaid guidelines at any stage of the Bidding Process. Applicants must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-I

1.2.2 In the Bid Stage, the aforesaid short-listed Applicants, including their successors, (the "Bidders") are being called upon to submit their Bids in accordance with the Bidding Documents. The Bid shall be valid for a period of not less than 120 days from the date specified in Clause 1.3 for submission of bids (the "Bid Due Date").





1.2.3 The Bidding Documents include the draft Concession Agreement for the Project copy of which is attached. The Feasibility Report prepared by the Authority / consultants of the Authority (the "Feasibility Report") is also attached. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP Document, but before the Bid Due Date, will be deemed to form part of the Bidding Documents.

1.2.4 A Bidder is required to deposit, along with its Bid, a bid security equivalent to about 1% (one per cent)⁷ of the Estimated Project Cost (the "Bid Security"), refundable not later than 60 days from the Bid Due Date except in the case of the highest Bidder. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Authority, and in such event, the validity period of the demand draft or bank guarantee, as the case may be, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

1.2.5 Generally, the Selected Bidder shall be the highest Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of this RFP, be invited to match the Bid submitted by the highest Bidder in case such highest Bidder withdraws or is not selected for any reason.

In the event that none of the other Bidders match the Bid of the highest Bidder, the Authority may, in its discretion, invite fresh Bids from all Bidders or annul the Bidding Process, as the case may be.

1.2.6 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Concession including implementation of the Project.


1.2.7 Bids are invited for the Project on the basis of the highest Gross Revenue Share quoted as a percentage by a Bidder for implementing the Project.

⁵ The Concession Agreement should either be provided along with the RFP or at least 45 days before the Bid Due Date and 21 days before the Pre-Bid Conference.

⁶ The Feasibility Report should either be provided along with the RFP or within 7 days of its issue.

⁷ The Authority may, if deemed necessary, prescribe a higher Bid Security not exceeding 2% of the Estimated Project Cost. In case of a project having an Estimated Project Cost of Rs. 2,000 cr. or above, the Authority may reduce the Bid Security, but not less than 0.5% in any case.





The Concession Period is pre-determined, as indicated in the Concession Agreement. The Gross Revenue Share shall constitute the sole criteria for evaluation of Bids. Subject to Clause 2.16, the Project will be awarded to the Bidder quoting the highest Gross Revenue Share.

1.2.8 The Concessionaire will be entitled to levy and charge a pre-determined user fee from users of the Project. Such charges are indicated in the draft Concession Agreement.

1.2.9 Further and other details of the process to be followed at the Bid Stage and the terms thereof are spelt out in this RFP.

1.2.10 Any queries or request for additional information concerning this RFP shall be submitted in writing or by fax and e-mail to the officer designated in Clause 2.1.5 below. The envelopes/ communication shall clearly bear the following identification/ title:

"Queries/Request for Additional Information: RFP for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis"

1.3 Schedule of Bidding Process

The Authority shall endeavour to adhere to the following schedule:

	Event Description	Date
1.	Last date for receiving queries	12-09-2009
2.	Pre-Bid meeting-1	24-09-2009
3.	Authority response to queries latest by	01-10-2009
4.	Pre-Bid meeting-2	15-10-2009
5.	Bid Due Date	07-11-2009]
6.	Opening of Bids	07-11-2009
7.	Letter of Award (LOA)	06-12-2009
8.	Validity of Bids	05-03-2010
9.	Signing of Concession Agreement	06-01-2010

⁸ In case of complex projects, the number of pre-bid meetings could be more than two.

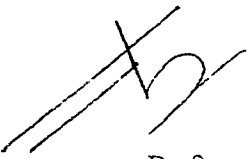


2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. General terms of Bidding

- 2.1.1 A Bidder is eligible to submit only one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
- 2.1.2 Unless the context otherwise requires, the terms not defined in this RFP, but defined in the Request for Qualification document for the Project (the "RFQ") shall have the meaning assigned thereto in the RFQ.
- 2.1.3 The Feasibility Report for the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination before submitting their Bids. Nothing contained in the Feasibility Report shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Feasibility Report.
- 2.1.4 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.5 The Bid should be furnished in the format at Appendix - I, clearly indicating the bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.1.6 The Bid shall consist of Gross Revenue Share to be quoted by the Bidder. The Gross Revenue Share shall be payable by the Concessionaire to the Authority, as per the terms and conditions of this RFP and the provisions of the Concession Agreement.
- 2.1.7 The Bidder shall deposit a Bid Security equivalent to 1% (one per cent) of the Estimated Project Cost, i.e. Rs.11.45 (Rupees Eleven decimal four five only) million in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a Demand



Draft or in the form of a Bank Guarantee, acceptable to the Authority, as per format at Appendix – II.

- 2.1.8 The validity period of the Bank Guarantee or Demand Draft, as the case may be, shall not be less than 180 (one hundred eighty) days from the Bid Due Date, and may be extended by the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable not later than 60 (sixty) days from the Bid Due Date except in the case of the highest Bidder.
- 2.1.9 The Bidder should submit a Power of Attorney, as per the format at Appendix – III, authorising the signatory of the Bid to commit the Bidder.
- 2.1.10 In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix – IV.
- 2.1.11 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.12 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.13 The Bidding Documents including this RFP and all attached documents are and shall remain the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid or any information provided along therewith.
- 2.1.14 A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder's proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise. Without limiting the generality of the above, a Bidder shall be considered to have a Conflict of Interest that affects the Bidding Process, if:
- (i) such Bidder (or any constituent thereof) and any other Bidder (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or

indirect shareholding in a Bidder or a constituent thereof in the other Bidder(s) (or any of its constituents) is less than 1% of its paid up and subscribed capital; or

- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder receives or has received any direct or indirect subsidy from any other Bidder, or has provided any such subsidy to any other Bidder; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Bid of either or each of the other Bidder; or
- (vi) such Bidder has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

2.1.15 A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder for a period of one month after 'Financial Close' in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have there-under or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same.

2.1.16 This RFP is not transferable.

2.1.17 Any award of Concession pursuant to this RFP shall be subject to the terms of Bidding Documents.

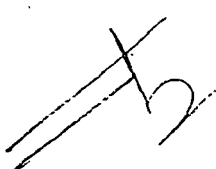
2.1.18

Other Bid conditions shall include:

(a) The Bidder claiming to have the O&M experience specified in Clause 2.2.3 of the RFQ shall provide necessary documents in support of the same.

(b) The Bidder, in case it does not have the O&M experience specified in Clause 2.2.3 of the RFQ, by submitting its Bid, shall be deemed to acknowledge and agree that for a

Other sector- specific conditions of bidding or restrictions, if any, may be stated here, such as O&M experience as specified in Clause 2.2.3 of RFQ or limit on FDI.



period of at least 5 (five) years from the date of commercial operation of the Project, it shall enter into an operations & maintenance (O&M) agreement with an entity having the specified experience, failing which the Concession Agreement shall be liable to termination.

2.2 Change in composition of the Consortium

2.2.1 Where the Bidder is a Consortium, change in composition of the Consortium may be permitted by the Authority during the Bid Stage, only where:


- (a) the Lead Member continues to be the Lead Member of the Consortium;
- (b) the substitute is at least equal, in terms of Technical Capacity and Financial Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants; and
- (c) the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member of any other Consortium bidding for this Project.

2.2.2 Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing.

2.2.3 The modified/ reconstituted Consortium shall be required to submit a revised Jt. Bidding Agreement before the Bid Due Date.

2.3 Change in Ownership

2.3.1 By submitting the Bid, the Bidder shall be deemed to have acknowledged that it was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who will own at least 26% each of the equity of the Concessionaire. The Bidder further acknowledges and undertakes that each of such Consortium Members shall continue to hold at least 26% of the equity of the Concessionaire until the Commercial Operation Date of the Project is achieved under and in accordance with the provisions of the Concession Agreement. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt



with as such there-under. For the avoidance of doubt, the provisions of this Clause 2.3.1 shall apply only when the Bidder is a Consortium.

- 2.3.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, the Bidder shall inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.


2.4 Cost of Bidding

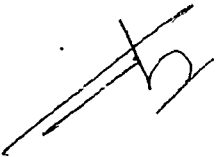
The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

- 2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

- 2.5.2 It shall be deemed that by submitting a Bid, the Bidder has:

- 
- (a) made a complete and careful examination of the Bidding Documents;
 - (b) received all relevant information requested from the Authority;

- 
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;
 - (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there-under;
 - (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement; and
 - (f) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.5.3 The Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, RFQ, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.6 Right to accept and to reject any or all Bids

2.6.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor.

2.6.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium shall be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the highest Bidder gets disqualified / rejected, then the Authority reserves the right to:

- (i) invite the remaining Bidders to submit Bids in accordance with Clause 3.3.3 and 3.3.4; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

2.6.3 In-case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the Concession thereby granted by the Authority, that one or more of the pre-qualification conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Bidder has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be. In such an event, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

2.6.4 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ, the RFP or the Bidding Documents. Failure of the Authority to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.



B. DOCUMENTS

2.7 Contents of the RFP

2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for Bids

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Evaluation of Bids
- Section 4. Fraud and Corrupt Practices
- Section 5. Pre-Bid Conference
- Section 6. Miscellaneous

Appendices

- I. Letter comprising the Bid
 - II. Bank Guarantee for Bid Security
 - III. Power of Attorney for signing of Bid
 - IV. Power of Attorney for Lead Member of Consortium
 - V. Guidelines of the Department of Disinvestment
- Annexures:

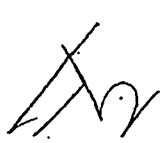
- 1. Draft Concession Agreement
- 2. Feasibility Report

2.7.2 The draft Concession Agreement provided by the Authority is appended to this RFP and shall be deemed to be a part of the Bid Documents.

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.10. They should send in their queries before the date mentioned in the Schedule of Bidding Process, specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be sent by fax or e-mail. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2.8.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be


taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

- 2.8.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

2.9 Amendment of RFP

- 2.9.1 At any time prior to the deadline for submission of Bids, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

- 2.9.2 Any Addendum thus issued will be sent in writing to all the Bidders.

- 2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date¹⁰.

C. PREPARATION AND SUBMISSION OF BIDS

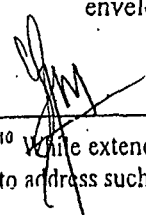
2.10 Format and Signing of Bid

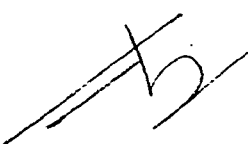
- 2.10.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects.

- 2.10.2 The Bid shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page, in blue ink. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.

2.11 Sealing and Marking of Bids

- 2.11.1 The Bidder shall submit the Bid in the format specified at Appendix-I, and seal it in an envelope and mark the envelope as "BID".


¹⁰ While extending the Bid Due Date, the Authority would have due regard for the time required by Bidders to address such amendment.



2.11.2 The documents accompanying the Bid shall be placed in a separate envelope and marked as "Enclosures of the Bid". The documents shall include:

- a). Bid Security in the prescribed format (Appendix – II);
- b) Power of Attorney for signing of Bid in the prescribed format (Appendix – III);
- c) If applicable, the Power of Attorney for Lead Member of Consortium in the prescribed format (Appendix – IV); and
- d) A copy of the Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (b) hereinabove.

2.11.3 A true copy of the documents accompanying the Bid, as specified in Clause 2.11.2 above, shall be placed in hard binding and the pages shall be numbered serially. Each page thereof shall be initialled in blue ink by the authorised signatory. This copy of the documents shall be placed in a separate envelope and marked "Copy of Documents".

2.11.4 The three envelopes specified in Clauses 2.11.1, 2.11.2 and 2.11.3 shall be placed in an outer envelope, which shall be sealed. Each of the four envelopes shall clearly bear the following identification:

"Bid for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis"

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

2.11.5 Each of the envelopes shall be addressed to:

ATTN. OF: Mr.K.Ramachandra Rao

Designation: Chief Engineer


Address:

Visakhapatnam Port Trust,
Visakhapatnam-530 035,
Andhra Pradesh, India.

Telephone: +91-891-2565289

Email: info@vizagport.com

Fax No. +91-891-2565023



2.11.6 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted.

2.11.7 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.12 Bid Due Date

2.12.1 Bids should be submitted before 1400 hours IST on the Bid Due Date at the address provided in Clause 2.11.5 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 2.11.5.

2.12.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.13 Late Bids

Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

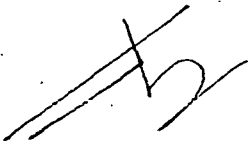
2.14 Contents of the Bid

2.14.1 The Bid shall be furnished in the format at Appendix – I and shall consist of a highest Gross Revenue Share to be quoted by the Bidder. The Bidder shall specify (in percentage) the highest Gross Revenue Share offered by him to undertake the Project in accordance with this RFP and the provisions of the Concession Agreement.

2.14.2 The Project will be awarded to the Bidder quoting the highest Gross Revenue Share.

2.14.3 The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.

2.14.4 The proposed Concession Agreement shall be deemed to be part of the Bid.



2.15 Modifications/ Substitution/ Withdrawal of Bids

- 2.15.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Authority prior to Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.
- 2.15.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.11, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.
- 2.15.3 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.16 Rejection of Bids

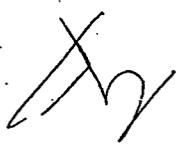
- 2.16.1 The Authority reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever. It is not obligatory for the Authority to accept any Bid or to give any reasons for their decision.
- 2.16.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

2.17 Validity of Bids

The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority.



2.19 Correspondence with the Bidder

The Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

D. BID SECURITY


2.20 Bid Security

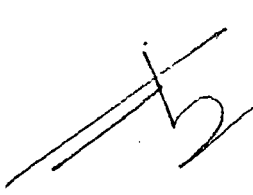
2.20.1 The Bidder shall furnish as part of its Bid, a certified true copy (signed by a Director) of the Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of a bank guarantee issued by a nationalised bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore, in favour of the Authority in the format at Appendix – II (the "Bank Guarantee") and having a validity period of not less than 180 days from the Bid Due Date, as may be extended by the Bidder from time to time. The Bank Guarantee that is required to be submitted by the Bidder shall be sent in original to the Authority directly by the issuing bank vide Registered post. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

2.20.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Authority and payable at Visakhapatnam (the "Demand Draft"). The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

2.20.3 Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.

2.20.4 Save as provided in Clauses 1.2.4 and 1.2.5 above, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Authority, but not later than 60 days from the Bid due date. Where Bid Security has been paid by deposit, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given in the Bid.





2.20.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the Bidder signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.

2.20.6 The Authority shall be entitled to forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation / damages to the Authority in any of the events specified in Clause 2.20.7 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the Bid validity period. No relaxation of any kind on Bid Security shall be given to any Bidder.

2.20.7 The Bid Security shall be forfeited and appropriated by the Authority as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise, under the following conditions:

- a) If a Bidder submits a non-responsive Bid;
- b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- c) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by the Bidder from time to time;
- d) In the case of Selected Bidder, if it fails within the specified time limit -
 - i) to sign the Concession Agreement and/or
 - ii) to furnish the Performance Security within the period prescribed therefor in the Concession Agreement; or
- e) In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.



3. EVALUATION OF BIDS

3.1 Opening and Evaluation of Bids

3.1.1 The Authority shall open the Bids at 1430 hours on the Bid Due Date, at the place specified in Clause 2.11.5 and in the presence of the Bidders who choose to attend.

3.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.

3.1.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness

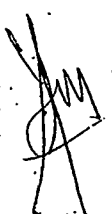
3.2.1 Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:

- (a) it is received as per the format at Appendix – I;
- (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.12.2;
- (c) it is signed, sealed, hard bound and marked as stipulated in Clauses 2.10 and 2.11;
- (d) it is accompanied by the Bid Security as specified in Clause 2.1.7;
- (e) it is accompanied by the Power(s) of Attorney as specified in Clauses 2.1.9 and 2.1.10, as the case may be;
- (f) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
- (g) it does not contain any condition or qualification; and
- (h) it is not non-responsive in terms hereof.

3.2.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

3.3 Selection of Bidder

3.3.1 The Bidder adjudged as responsive in terms of Clause 3.2.1 and quoting the



highest Gross Revenue Share shall be declared as the selected Bidder (the "Selected Bidder").

3.3.2 In the event that two or more Bidders quote the same amount of percentage of highest Gross Revenue Share (the "Tie Bidders"), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

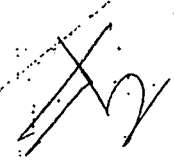
3.3.3 In the event that the highest Bidder withdraws or is not selected for any reason in the first instance (the "first round of bidding"), the Authority may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid highest Bidder (the "second round of bidding").

If in the second round of bidding, only one Bidder matches the highest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said highest Bidder in the second round of bidding, then the Bidder whose Bid was higher as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said highest Bidder in the second round of bidding, the said third highest bidder shall be the Selected Bidder.

3.3.4 In the event that no Bidder offers to match the highest Bidder in the second round of bidding as specified in Clause 3.3.3, the Authority may, in its discretion, invite fresh Bids (the "third round of bidding") from all Bidders except the highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the first round of bidding.

3.3.5 After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Selected Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the

¹¹ The bidding parameter may be described in this Clause 3.3.1 or in a new Clause 3.5. The bidding parameter should normally be specified in a manner that requires the Bidders to quote a single number in paragraph 26 of Appendix-I.




Authority on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

3.3.6 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall execute the Concession Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation in the Concession Agreement.

3.4 **Contacts during Bid Evaluation**

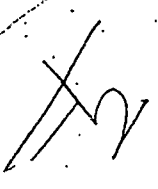
Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.






4. FRAUD AND CORRUPT PRACTICES


- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority shall reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before


or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

- (b) "fraudulent practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
 - (c) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;
 - (d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
 - (e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.
- 



5. PRE-BID CONFERENCE

- 5.1 Pre-Bid conferences of the Bidders shall be convened at the designated date, time and place. Only those persons who have purchased the RFP document shall be allowed to participate in the Pre-Bid Conferences. A maximum of five representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 5.2 During the course of Pre-Bid conferences, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- 

6. MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Visakhapatnam shall have exclusive jurisdiction over all disputes arising under, pursuant to, and/ or in connection with the Bidding Process.

6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
- (b) consult with any Bidder in order to receive clarification or further information;
- (c) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
- (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.



APPENDIX - I

Letter comprising the Bid

(Refer Clauses 2.1.5 and 2.14 of the RFP)

Dated:

The Chief Engineer,
Visakhapatnam Port Trust,
Visakhapatnam - 530 035

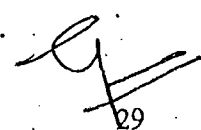
Sub: Bid for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner harbour of Visakhapatnam port for handling dry bulk cargo Project on DBFOT basis

Dear Sir,

With reference to your RFP document dated *****, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

2. All information provided in the Bid and in the Appendices is true and correct.
3. This statement is made for the express purpose of qualifying as a Bidder for the project " Development of Western Quay (WQ-6) berth in the Northern Arm of inner harbour of Visakhapatnam Port for handling dry bulk cargo on DBFOT basis.
4. I/We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and we hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, I / we/ any of the Consortium Members have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. I/We declare that:
 - (a) I/We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority.

- (b) I/ We do not have any conflict of interest in accordance with Clauses 2.1.14 and 2.1.15 of the RFP document;
- (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
- (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.6 of the RFP document.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the Net Worth criteria and meet(s) the requirements as specified in the RFQ document and are/ is qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the Government vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply mutatis mutandis to the Bidding Process.
10. I/ We declare that we/ any Member of the Consortium, are/ is not a Member of a/ any other Consortium submitting a Bid for the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or have adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.


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28. I/We agree and undertake to abide by all the terms and conditions of the RFP document.

In witness whereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date:

(Signature of the Authorised signatory)

Place:

(Name and designation of the of the Authorised signatory)

Name and seal of Bidder/Lead Member

APPENDIX - II
Bank Guarantee for Bid Security

(Refer Clauses 2.1.7 and 2.20.1 of the RFP)

B.G. No. _____

Dated: _____

1. In consideration of you, Visakhapatnam Port Trust, having its office at Visakhapatnam, Andhra Pradesh, India, (hereinafter referred to as the "Authority", which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns) having agreed to receive the Bid of _____ [a Company registered under provision of the Companies Act, 1956] and having its registered office at _____ [and acting on behalf of its Consortium] (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the development of Western Quay (WQ-6) Berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis (hereinafter referred to as "the Project") pursuant to the RFP Document dated ***** issued in respect of the Project and other related documents (hereinafter collectively referred to as "Bidding Documents"), we [Name of the Bank] having our registered office at _____ and one of our branches at _____ (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. 11.45 (Rupees Eleven decimal four five only) million as bid security (hereinafter referred to as the "Bid Security") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the


33

claim of the Authority is disputed by the Bidder or not merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. 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 Rs. ***** (Rupees ***** only). *Eleven lakhs and four thousand five hundred*

11.45 million

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person or entity.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing

any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

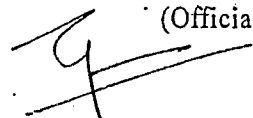
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We, the Bank undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by _____ Bank

By the hand of Mr./Ms _____, its _____ and authorised official.



(Signature of the Authorised Signatory)



(Official Seal)

APPENDIX - III

Power of Attorney for signing of Bid

(Refer Clause 2.1.9 of the RFP)

Know all men by these presents, We, _____ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of _____ and presently residing at _____, who is [presently employed with us/ the Lead Member of our Consortium and holding the position of _____], as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner harbour of Visakhapatnam port for handling dry bulk cargo Project on DBFOT basis proposed or being developed by the Visakhapatnam Port Trust (the "Authority") including but not limited to signing and submission of all applications, bids and other documents and writings, participating in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

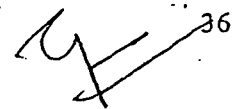
AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, _____, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____, 2009.

For _____

(Signature)
(Name, Title and Address)

Witnesses:

 36

1.

2.

Accepted

[Notarised]

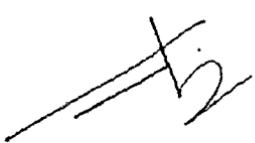
(Signature)

(Name, Title and Address
of the Attorney)

Notes:

- ③ *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- ③ *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- ③ *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.*




APPENDIX - IV

Power of Attorney for Lead Member of Consortium

(Refer Clause 2.1.10 of the RFP)

Whereas the Visakahapatnam Port Trust ("the Authority") has invited bids from pre-qualified and short-listed parties for the development of Western Quay (WQ-6) berth in the Northern Arm of Inner Harbour of Visakhapatnam Port for handling dry bulk cargo Project on DBFOT basis.

Whereas, _____ and _____ (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, _____ having our registered office at _____, M/s. _____, having our registered office at _____, and M/s. _____, having our registered office at _____, [the respective names and addresses of the registered office] (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s _____, having its registered office at _____, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney") and hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the

Consortium's bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____ 2009.

For _____
(Name & Title)

For _____
(Name & Title)

For _____
(Name & Title)

Witnesses:

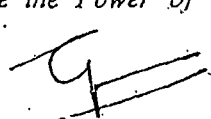
- 1.
- 2.

(Executants)

(To be executed by all the Members of the Consortium)

Notes:

- ③ The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- ③ Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- ③ For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.



APPENDIX - V

Guidelines of the Department of Disinvestment

(Refer Clause 1.2.1)

No. 6/4/2001-DD-II
Government of India
Department of Disinvestment

Block 14, CGO Complex
New Delhi.
Dated 13th July 2001.

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

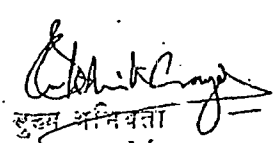
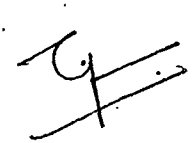
- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment / adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.
- (b) In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government / conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.
- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.

- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India



मुख्य अभियंता
विशाखपट्टणम पोर्ट ट्रस्ट
CHIEF ENGINEER
Visakhapatnam Port Trust

[Handwritten signature]

5th Floor, Bhupati Chambers.
13 Mathew Road, Mumbai 400 001, INDIA.
Tel. +91-22-6656 3000 • Fax: 91-22-2364 9236
Email: hq@abginfra.com

ABG
InfraLogistics Ltd.

Ref.: ABG/P425/078/09
Date : August 17, 2009.

The Chief Engineer
Engineering Department
Visakhapatnam Port Trust
Visakhapatnam 530 035
Andhra Pradesh
Fax : 0891-2535023
E-mail : info@vizagport.com

Sir,

Sub : Development of Western Quay (WQ-6) berth in the Northern Arm of Visakhapatnam Port for handling dry bulk cargo on Build, Operate and Transfer BOT basis – Reg Purchase of Request for Proposal Document

Ref : 1) Global Tender Note No. QENG/ADB/T/Cap/WQ-6/Nil dated 23.05.2008
2) RFQ Document submitted on 31.07.2008

Please refer to your letter Ref. IENG/EE(PROJECTS)/WQ 6/Pt.VII/153 dated 11.08.2009 regarding the above-cited subject.

We are forwarding, per bearer of this letter, our representative Mr. Ismail Sanadi, Operations Manager, whose specimen signature is appended below, Demand Draft No. 033679 dated 17th August, 2009, issued in favour of FA & CAO/VPT, drawn on Bank of India, Visakhapatnam Branch, payable at Visakhapatnam, for Rs. 10,000/- (Rupees Ten Thousand only) being cost of Request for Proposal (RFP) document. We hereby authorise Mr. Ismail Sanadi to collect the RFP document for and on our behalf. Please hand over the same to him against acknowledgement of receipt of payment.

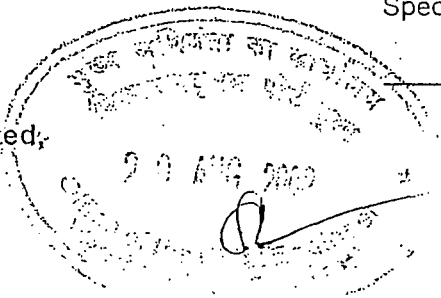
Thanking you,

Yours faithfully,
For ABG InfraLogistics Limited,

[Handwritten signature]
C. Babu Rajeev
Chief Executive Officer

Specimen signature :

[Handwritten signature]
Ismail Sanadi



BANK OF INDIA
न शाखा, मुंबई - 400 026 (महाराष्ट्र)
LA HILL BRANCH, MUMBAI - 400 026 (Maharashtra)
मुंबई शाखा (Mumbai Branch)
ने पर ON DEMAND PAY

मोटा क्लिप जाने की तारीख से छः महीने तक वैध है.
VALID FOR SIX MONTHS FROM THE DATE OF ISSUE
न मोड़ें DO NOT FOLD
0013

दिनांक
DATE 17-08-2009

प्रथम रुपैयाँ
अंक
FIRST RUPEE
DIGIT

FA & CAO/VPT

या उनके आदेश पर OR ORDER

रुपये RUPEES	Ten Thousand only			
मा. डा. नं. D.D.No.	00	13	33679	
सं. को. RECON. CODE	आल्फा ALPHA		क्रम. सं. SR.No.	

BANK OF INDIA

www.bankofindia.co.in

CMH

सं. को. RECON CODE

रु. Rs.	10,000.00
प्राप्त मूल्य के लिए अदा करें बैंक ऑफ इंडिया कृते बैंक ऑफ इंडिया For BANK OF INDIA	
कोड नं. CODE No.	53452
कोड नं. CODE No.	

अधिकृत हस्ताक्षरकर्ता Authorized Signatory

VISAKHAPATNAM PORT TRUST
ENGINEERING DEPARTMENT

No. IENG/EE(PROJECTS)/WQ 6/Pt. VII/153
Dt. 11-8-2009.

To

M/s. ABG Infralogistics Ltd.,
5TH Floor,
Bhupati Chambers, 13, Mathew Road,
Mumbai 400 004.

FAX NO. 9122-23649236

Dear Sir,

Sub: Development of Western Quay (WQ-6) Berth in the Northern Arm of Inner
Harbour of VPT for handling Dry Bulk Cargo on Design, Build, finance,
Operate and Transfer (DBFOT) basis - Reg.


In pursuance of your application in response to our Request for Qualification document
(the "RFQ"), you were short-listed as a Bidder, in accordance with the provisions of the RFQ for
the aforesaid project.

You are requested to participate in the Bid Stage with the objectives of submitting your
financial proposal (the "Bid") for the aforesaid Project in accordance with the RFP.

You are requested to remit an amount of Rs. 10,000/- by way of D.D. drawn in favour of
FA&CAO /VPT towards issue of RFP documents.

Thanking you,

Yours faithfully,


CHIEF ENGINEER 11-8-09.