

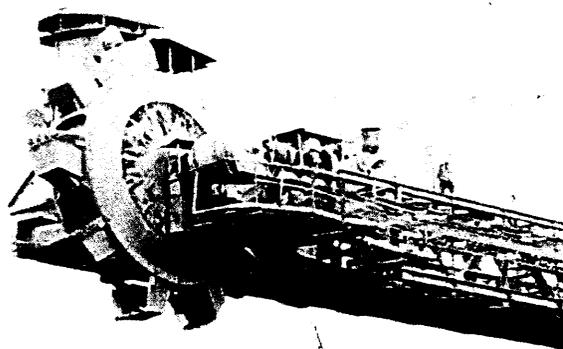
CONCESSION AGREEMENT

BETWEEN

**BOARD OF TRUSTEES FOR VISAKHAPATNAM PORT TRUST
(THE CONCESSIONING AUTHORITY)**

AND

**ESSAR VIZAG TERMINALS LIMITED
(THE CONCESSIONAIRE)**



FOR

**UPGRADATION OF EXISTING FACILITY AND CREATION OF
NEW FACILITY AT VISAKHAPATNAM PORT TRUST FOR IRON ORE
HANDLING ON DESIGN, BUILD, FINANCE, OPERATE AND
TRANSFER (DBFOT) BASIS**



DATED: 13.12.2013

ESSAR
PORTS

CONCESSION AGREEMENT

BETWEEN

BOARD OF TRUSTEES FOR VISAKHAPATNAM PORT TRUST
(THE CONCESSIONING AUTHORITY)

AND

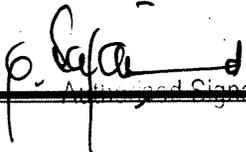
ESSAR VIZAG TERMINALS LIMITED
(THE CONCESSIONAIRE)

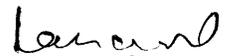
FOR

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HANDLING ON DESIGN, BUILD, FINANCE, OPERATE AND
TRANSFER (DBFOT) BASIS

DATED: 13.12.2013

FOR ESSAR VIZAG TERMINALS LIMITED


Authorized Signatory

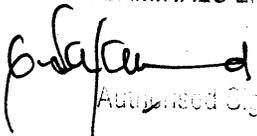

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SECRETARY

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विशाखपट्टणम/VISAKHAPATNAM

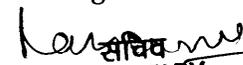
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For ESSAR VIZAG TERMINALS LIMITED


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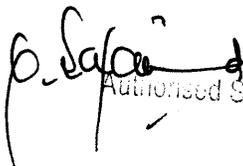
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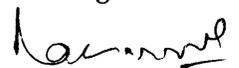
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For ESSAR VIZAG TERMINALS LIMITED


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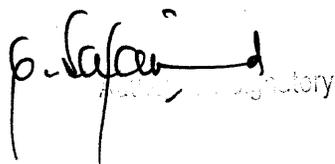
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For ESSAR VIZAG TERMINALS LIMITED


P. Sankar
Secretary

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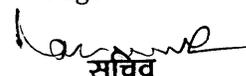
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For ESSAR VIZAG TERMINALS LIMITED


Authorized signatory

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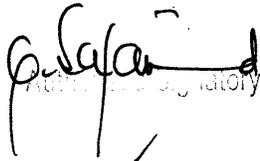
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For ESSAR VIZAG TERMINALS LIMITED

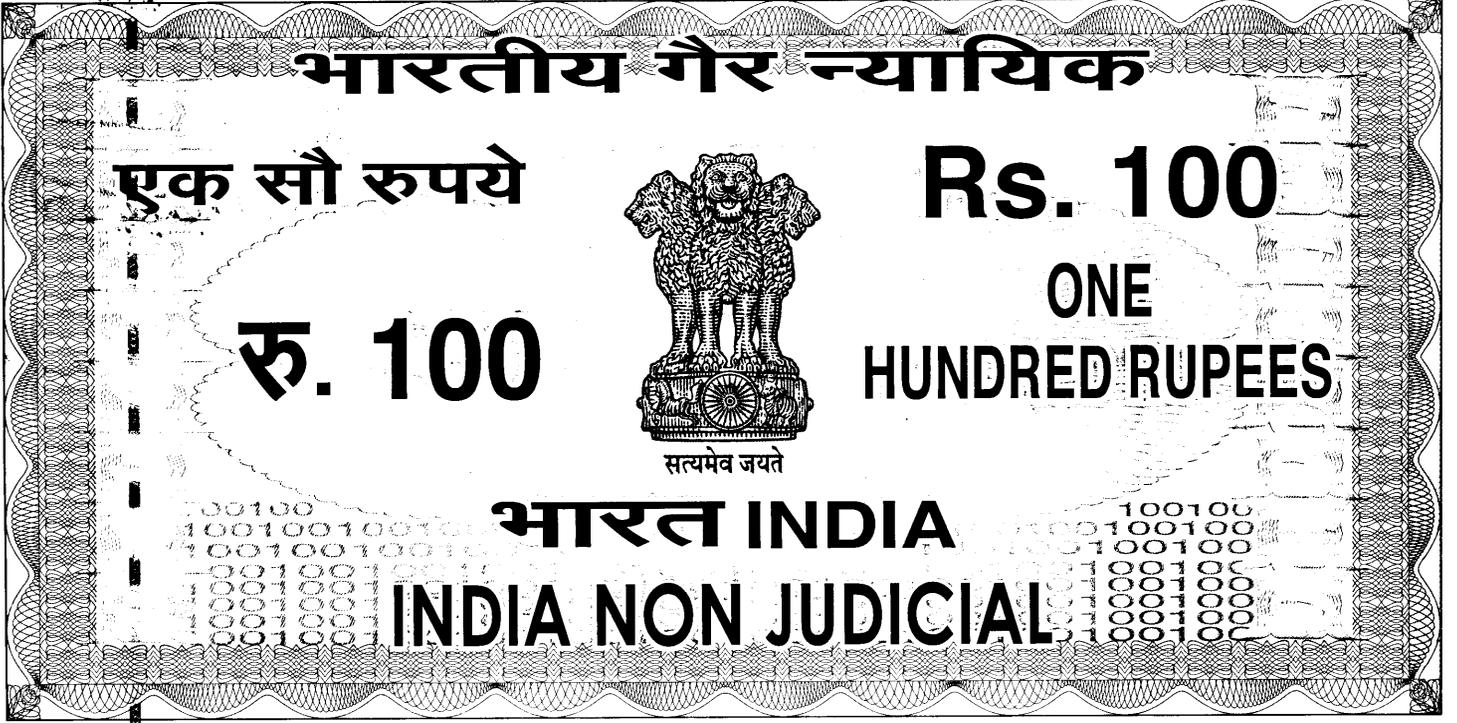

Secretary

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ATTORNEY OF THE VPT BOARD
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ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

No. 14665 Date 11/12/13

Sold to E. Madhava Swamy, G/O. Venugopula Reddy

For Whom D/S. Essar Vizag Terminals Ltd.

AA 851673
B. RAMA RAO
LICENCED STAMPER
L.No.03/11/0011
53-43-1, Seetha ramadhara, Visakhapatnam
Cell : 98492 43254

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is made at Visakhapatnam, Andhra Pradesh on this the 13th day of December, 2013

BETWEEN

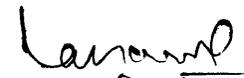
1. **BOARD OF TRUSTEES** for Visakhapatnam Port Trust, a body corporate constituted under the provisions of the Major Port Trusts Act, 1963 and having its Administrative Office at Visakhapatnam, Andhra Pradesh, India, hereinafter referred to as “the **Concessing Authority**” (which expression shall,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

AND

2. **ESSAR VIZAG TERMINALS LIMITED**, a company registered under the Companies Act, 1956, and having its registered office at ESSAR House, Opp. Gujarat College, Near Hotel Inder Residency, Ellis Bridge, Ahmedabad 380 006, hereinafter referred to as “the **Concessionaire**” (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns).

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory


सचिव
SECRETARY
वा. &
वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम / VISAKHAPATNAM

WHEREAS:

- (A) The Concessing Authority is desirous of implementing a Project (as defined hereinafter) for planning, engineering, designing, finance, construction, development, operation & maintenance of Up-gradation of existing facility and creating of new facility at Visakhapatnam Port Trust for iron ore handling through Public-Private Partnership on Design, Build, Finance, Operate and Transfer (DBFOT) basis through private sector participation;
- (B) In or about December, 2012, the Concessing 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 Concessing Authority received applications from various parties including the application dated 24th December 2012 submitted by the Applicant in accordance with the Request for Qualification;
- (D) The Concessing Authority, after evaluating all the applications, shortlisted five number of applicants including the Applicant 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 Concessing Authority received proposals from the shortlisted applicants including the one submitted by the Applicant;
- (F) The Concessing 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 and communicated its acceptance to the Applicant vide Letter of Intent for Award of Concession dated 31.05.2013;
- (G) The Applicant has 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 Concessing 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 ESSE... TERMINES...
6. [Signature]
CONCESSIONAIRE SIGNATURE
WITH BOARD SEAL

[Signature]
SECRETARY & ATTORNEY
OF BOARD WITH BOARD
SEAL
SECRETARY
SEAL वा. &
वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is made at Visakhapatnam, Andhra Pradesh on this the 13th day of December, 2013

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 Concessing Authority**” (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns);

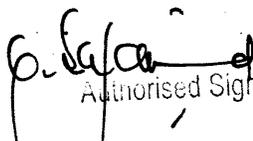
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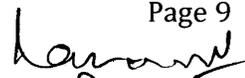
WHEREAS:

- (A) The Concessing Authority is desirous of implementing a Project (as defined hereinafter) for planning, engineering, designing, finance, construction, development, operation & maintenance of Up-gradation of existing facility and creating of new facility at Visakhapatnam Port Trust for iron ore handling through Public-Private Partnership on Design, Build, Finance, Operate and Transfer (DBFOT) basis through private sector participation;
- (B) In or about December, 2012, the Concessing 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 Concessing Authority received applications from various parties including the application dated 24th December 2012 submitted by the Applicant in accordance with the Request for Qualification;

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory

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सचिव
SECRETARY

वा. &

वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

- (D) The Concessing Authority, after evaluating all the applications, shortlisted five number of applicants including the Applicant 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 Concessing Authority received proposals from the shortlisted applicants including the one submitted by the Applicant;
- (F) The Concessing 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 and communicated its acceptance to the Applicant vide Letter of Intent for Award of Concession dated 31.05.2013;
- (G) The Applicant has 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 Concessing 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 ESSAR VIZAG TERMINALS LIMITED


CONCESSIONAIRE SIGNATURE
Authorised Signatory
WITH BOARD SEAL


SECRETARY & ATTORNEY
OF BOARD WITH BOARD
SEAL
SEAL
वा. &
वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

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: -

“Access / Entrance channel” means the waterway that gives access or passage to harbour, channels, berths etc. Visakhapatnam Port Trust has an outer entrance channel which is located on the east side of the brake waters. Vessels bound from WQ-7 Berth utilize the channel including outer turning basin, inner channel, inner turning basin and northern arm of port waterways.

“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 Concessioning 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.

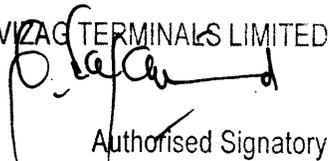
“Additional Guarantee” shall have the meaning as ascribed to it in Article 4.2.

“Affiliate” means, with respect to any Party and / or with respect to the Applicant, any other Person directly or indirectly controlling, controlled by or under common control with such Party, Applicant. 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, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Party or Applicant whether through ownership of 50 (fifty) % or more of the voting securities, by contract, or otherwise.

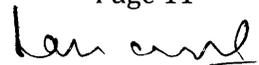
“Agreement” means this agreement as of date hereof, including Appendices 1 through 18 as may be amended, supplemented or modified in accordance with the provisions hereof.

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

For ESSAR VIZAG TERMINALS LIMITED


Authorized Signatory

Page 11



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SECRETARY

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वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VISAKHAPATNAM PORT TRUST
विशाखपट्टणम/विशाखपट्टणम

“**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 Vadinar Oil Terminal Limited, having its registered office at ESSAR Refinery Site, 39 KM Stone, Okha Highway (SH-25), Khambhalia, Gujarat-361 305.

“**Bid**” means the proposal and the entire set of documents submitted by the Applicant in response to the RFQ and the RFP.

“**Bid Security**” means the bank guarantee No.007GM01130840002, dated 25.03.2013, furnished by the Applicant 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 judgment of an Expert are capable of being put to use/utilized by the Concessions Authority, and (ii) the moveable assets including cargo handling equipment belonging to the Concessionaire, which the Concessions 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 Concessions 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.

“**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.

“**Construction Phase**” means Construction Phase for Phase I and/or Construction Phase for Phase II, as the case may be.

“**Construction Phase for Phase I**” means the period from the Date of Award of Concession to the Date of Commercial Operation of Phase I.

“**Construction Phase for Phase II**” means the period of twenty four (24) Months commencing from the date on which the Conditions Precedent for Phase II have either been satisfied or waived by the Party other than the Party responsible for satisfying the same.

“**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 a¹ 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.

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

“**Date of Commercial Operation for Phase I or Phase II (as the case may be)**” means the date following the date on which the Concessionaire receives the Completion Certificate for Phase I or Phase II, as the case may be, in accordance with the provisions of this Agreement / MPT Act.

“**Day**” means the 24 (twenty four) hour period beginning and ending at 12:00 midnight Indian Standard Time.

¹ 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.

“**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 Concessioning 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.


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ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

“**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.845.41Crores (Rupees Eight Forty Five and Forty One crores) being the cost of the Project as estimated by the Concessioneing Authority and disclosed in the Request for Proposal. The breakup of total Estimated Project Cost is as under:

	(Rs. in Crores)
Upfront fee	- 185.87
Phase-I	- 395.02
Phase-II	- 264.52

Total	845.41

“**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 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 as per the tariff stated in Appendix 12.

“**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.

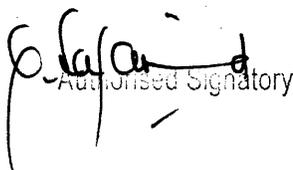
“**Indian Accounting Standards**” means the Indian accounting standards issued by the Institute of Chartered Accountants of India.

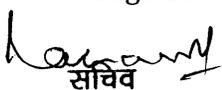
“**Insurance Cover**” shall have the meaning ascribed to it in Article 12.1(c)(ii).

“**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 the Project.

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

“**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


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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 Event**” 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.

“**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.

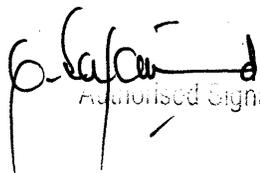
“**Performance Standards**” means the minimum standards of performance set out in Appendix 15 with regards the Project Facilities and Services.

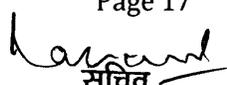
“**Performance Guarantee**” shall mean the bank guarantee(s)/letter(s) of credit procured by the Concessionaire for the benefit of the Concessioneing Authority guaranteeing the performance of the obligations of the Concessionaire hereunder in the manner specified in Article 4.1.

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

“**Phase I**” shall mean and include the details stated for Phase I in Appendix 4.

“**Phase II**” shall mean and include the details stated for Phase II in Appendix 4.


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“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.

“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 Concessioneing 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 23 Millions Metric Tonnes per annum. The breakup of Project Capacity is as under:

Phase-I	-	16.2 MTPA
Phase-II	-	6.8 MTPA
Total		23.0 MTPA

“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 (as set out under Appendix 4), 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).

“**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 12.02.2013 issued by the Concessing Authority to the applicants shortlisted pursuant to the Request for Qualification and includes any addendum / clarifications issued in respect thereof by the Concessing Authority.

“**Request for Qualification**” or “**RFQ**” means the Request for Qualification under Global Tender Notice No.01/ICME/2012-13/OHC/WQ-1/ dated 25.10.2012 issued by the Concessing 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 Concessing Authority.

“**Requisition**” has the meaning ascribed to it in Article 16.3.

“**Royalty**” means the gross revenue share payable by the Concessionaire to the Concessing 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**” for Phase I or Phase II (as the case may be) means the date on which the particular phase of Project (i.e. Phase I or Phase II) is expected to be completed by the Concessionaire as per the implementation schedule set out in Appendix 5.

“**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.

“**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 Concessing Authority, the Concessionaire and the

Lenders.

“Supporting Project Infrastructure” means:

- (a) maritime access channels; maritime access channels & port entrance: The entrance channel to the outer harbour is 200m wide with a dredged depth of (-)20m and the entrance channel to the inner harbour is with a dredged depth of (-) 12.10m are existing and the same are proposed to be widened / deepened as per development plans of the Concessioneing Authority.
- (b) Shore protection and other protective works
- (c) 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.

“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 Concessioneing Authority for and in respect of providing the Project Facilities and Services.

“Tariff Notification” means the notifications no. TAMP/32/2010-VPT dated 29.11.2010 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 Visakhapatnam Port.

“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 Concessioneing Authority

“Transfer Date” means the date of expiry or termination as the case may be, of the Concession Period or Phase II, as the case may be, 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.
“CLO” means Calibrated lump ore.
“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 Standards Organization.
“IEC” means International Electro Technical Commission.
“IMDG” means International Maritime Dangerous Goods.
“IMO” means International Maritime Organization.
“km” means Kilometre, the unit of length.
“kWh” means Kilowatt-hour, the unit of electrical energy.
“KVA” means Kilovolt-Ampere, the unit of power.
“m” means Metre, the unit of length.
“mm” means Millimetre, the unit of length.
“MT” means Metric Tonne, the unit of weight.
“MVA” means Mega Volt Ampere, the unit of power.
“MSIHC” means Manufacture Storage and Input of Hazardous Chemicals.
“MoEF” means Ministry of Environment and Forests
“OISD” means Oil Industry Safety Directorate.
“TPH” means Tonnes per Hour
“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 Concessioning 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 Concessions Authority (a) the License Fee and (b) Royalty, and performing its obligations as set out in this Agreement, the Concessions 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

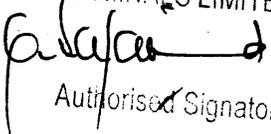
The Concession hereby granted is for a period of **30 (t h i r t y)** years commencing from Date of Award of Concession during which the Concessionaire is authorized and obliged to implement the Project and to provide Project Facilities and Services in accordance with the provisions hereof.

Provided that: -

- (a) in the event of the Concession being extended by the Concessions Authority beyond the said period of **30 (t h i r t y)** 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.

For ESSAR VIZAG TERMINALS LIMITED

Authorized Signatory


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वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

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.

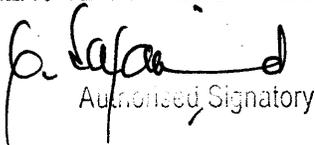
2.6 Information about Project Site and Port's Assets

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.

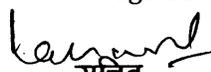
2.7 Acceptance of the Port Assets

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

For ESSAR VIZAG TERMINALS LIMITED


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- (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 Concessions 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 Concessions Authority shall, if called upon by the Concessionaire, defend such claims and proceedings.

ARTICLE 3
CONDITIONS PRECEDENT

3.1 Conditions Precedent

A. Conditions Precedent for the Concessionaire: The Conditions Precedent for the Concessionaire has been divided into following two parts:

(a) Phase I: The following Conditions Precedent shall be satisfied by the Concessionaire before commencing the construction of Phase I:

- (i) Furnishing of the Performance Guarantee as stipulated in Article 4.1 (b) 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, in relation to Phase I of the Project;
- (v) Furnishing a certificate from its principal officer / director on the shareholding pattern of the Concessionaire;
- (vi) Furnishing its Financing Plan and Financing Documents for the Project and demonstrating Financial Close, in respect of Phase I. Provided, Financial Close shall be deemed to be achieved if the only conditions pending for achieving Financial Close for Phase I are those which are required to be fulfilled by the Concessing Authority under Article 3.1 (B) hereunder;
- (vii) Procuring and furnishing the following confirmations, in original, from the Applicant:
 - (a) it shall at all times comply with the provisions of Article 11.2 in respect of their shareholding in the Concessionaire;
 - (b) it has the financial standing and resources to fund / raise finances for undertaking and implementing the Project in accordance with this Agreement;

For ESSAR VIZAG TERMINALS LIMITED


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- (c) the Applicant is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Concessing 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;
- (viii) Furnishing to the Concessing 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;
- (ix) Obtaining Applicable Permits as may be require for commencement of Construction Works for Phase I as set out in Appendix 8.
- (x) If required, the Concessionaire shall enter into an Integrity Pact as set out in Appendix 17 with the Concessing Authority as per the "Standard Operating Procedure" laid down for adoption of Integrity Pact in Major Government Departments / Organizations formulated by the Central Vigilance Commission / Government of India.
- (xi) An amount of Rs.185.87 Crores.is required to be paid as upfront by the Concessionaire, towards value of the assets of existing mechanized Iron ore handling facilities of Outer Harbour, before the Date of award of Concession and
- (xii) Furnishing of Additional Guarantee as stipulated in Article 4.2 hereof.
- (b) **Phase II: The following Conditions Precedent shall be satisfied by the Concessionaire before commencing the construction of Phase II:**
- (i) Furnishing of the Performance Guarantee (as stipulated in Article 4.1(c) hereof), if applicable.
- (ii) Opening the Escrow Account and executing the Escrow Agreement, in relation to Phase II of the Project.
- (iii) Furnishing its Financing Plan and Financing Documents for the Project and demonstrating Financial Close, in respect of Phase II.
- (iv) Obtaining Applicable Permits as may be required for commencement of Construction Works for Phase II as set out in Appendix 8.


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B. Conditions Precedent for Concessioneing Authority: The following Conditions Precedent shall be satisfied by the Concessioneing Authority for Phase I and/or Phase II, as applicable:

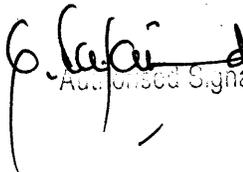
- (i) procurement of the clearances required for the Project², as set out in Appendix 8;
- (ii) handing over physical possession of the Project Site³ and / or the Port's Assets for the purposes of the Project;
- (iii) Provision of or putting in place arrangements for the provision of Supporting Project Infrastructure by the Concessioneing Authority.

3.2 The Conditions Precedent in respect of Phase I shall be fulfilled by the Concessionaire and the Concessioneing Authority within 120 (one hundred twenty) Days of the date of execution of this Agreement. The Conditions Precedent in respect of Phase II shall be fulfilled by the Concessionaire within 180 (one hundred eighty) days from the date of attaining the threshold limit of 12.5MTPA at Outer Harbour or 2 MTPA traffic at Inner Harbour, whichever is earlier. It is however, clarified that there is no restriction on the Concessionaire, to execute Phase II co-terminus with Phase I. It is further clarified that in case the Concessionaire intends to execute/commence Phase II co-terminus with Phase I, then the Concessionaire shall inform in writing to the Concessioneing Authority of its intention to execute Phase II simultaneously with Phase I. In such an event the Conditions Precedent for Phase II shall be satisfied by the Concessionaire within 180 (one hundred eighty) days from the date on which the Concessionaire informs the Concessioneing Authority about its intention to execute Phase II co-terminus with Phase I. 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) (a) and/or 3.1(A)(b) 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

² 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.

³ 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.


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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)(a) and/or 3.1(A)(b), as the case may be, and the same has not been waived or extended the time under Article 3.3 above, and if the Concessioneing Authority has failed to fulfil the Conditions Precedent for Phase I and/or Phase II, as the case may be, 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 of Phase I and/or Phase II, as the case may be, 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 of Conditions Precedent of Phase I and/or Phase II, as the case may be, 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 of Phase I and/or Phase II, as the case may be, then the Agreement or Phase II, as the case may be, shall be liable to be terminated as provided for in Article 3.6(a) or 3.6(c) below.

3.5 If the Concessioneing Authority has fulfilled all the Conditions Precedent for Phase I and/or Phase II, as the case may be, under Article 3.1(B) and the same has not been waived or extended the time under Article 3.3 above, and if the Concessionaire has failed to fulfil the Conditions Precedent for Phase I and/or Phase II under Article 3.1(A)(a) and/or 3.1(A)(b), as the case may be (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 of Phase I and/or Phase II, as the case may be, 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 of Conditions Precedent of Phase I and/or Phase II, as the case may be, 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 of Phase I and/or Phase II, as the case may be, then the Agreement or

Phase II shall be liable to be terminated as provided for in Article 3.6(a) or 3.6 (c) below.

- 3.6 (a) In the event that the Conditions Precedents of Phase I 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.
- (b) It is clarified that if termination of the Agreement under Article 3.6 (a) above is on account of failure of the Concessionaire to comply with the Conditions Precedent in respect of Phase I, the Bid Security/Performance Guarantee and the Additional Guarantee (if provided) shall stand forfeited. However, if termination of the Agreement under Article 3.6 (a) above is on account of failure of the Concessions Authority to comply with the Conditions Precedent in respect of Phase I, the Concessions Authority shall be obliged to return the Bid Security / Performance Guarantee and Additional Guarantee (if provided by the Concessionaire).
- (c) In case the Conditions Precedents of Phase II of the Project are not complied with within the time (including the extended time, if any) in terms of the aforesaid Articles 3.2 to 3.5, then Phase II of the Project will be liable to be terminated.
- (d) If termination of Phase II of the Project under Article 3.6 (c) above is on account of failure of the Concessionaire to comply with the Conditions Precedent in respect of Phase II, then Additional Guarantee shall stand forfeited. However, if termination of Phase II of the Project under Article 3.6 (c) above is on account of failure of the Concessions Authority to comply with the Conditions Precedent in respect of Phase II, then the Concessions Authority shall be obliged to return the Additional Guarantee.
- (e) It is also clarified that except for the payment as stipulated in the foregoing Articles 3.4 and 3.5 above and forfeiture/refund of payments as stated in sub-Articles 3.6(b) and 3.6(d) above, each Party hereto shall have no claims against the other for costs, damages, compensation or otherwise.

ARTICLE 4

PERFORMANCE GUARANTEE AND ADDITIONAL GUARANTEE

4.1 Performance Guarantee

- (a) The Concessionaire shall for due performance of its obligations during the Construction Phase provide to 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**").
- (b) The Performance Guarantee shall be for a sum of Rs.422.71 millions (Rupees Four hundred and Twenty two and seventy one millions 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 of Rs.422.71 millions furnished under this sub-Article shall be valid until expiry of 6 (six) months after the Date of Commercial Operations of Phase I.
- (c) The amount of aforesaid Performance Guarantee of Rs.422.71 millions shall be reduced to a sum of Rs. 132.26 millions (Rupees One Hundred and Thirty Two and Twenty Six millions only) upon expiry of 6 (six) months after the Date of Commercial Operation of Phase I. The Concessionaire shall provide a fresh Performance Guarantee of the reduced amount of Rs.132.26 millions (substantially in the form set forth in Appendix 9) to the Concessioneing Authority 30 (thirty) Days prior to the date of expiry of the Performance Guarantee of Rs.422.71 millions. It is, however, clarified that in case Phase II of the Project has not been started by the Concessionaire at the time of expiry of 6 (six) months after the Date of Commercial Operation of Phase I, then the Performance Guarantee of Rs. 132.26 millions shall be provided by the Concessionaire as part of the Conditions Precedent for Phase II of the Project. The Performance Guarantee of Rs. 132.26 millions shall remain valid until expiry of 6 (six) months after the Date of commercial Operations of Phase-II.
- (d) 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.

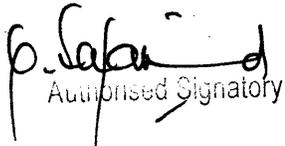
This shall be done within 30 (thirty) Days of any such part encashment. The Performance Guarantee, if in the form of a letter of credit shall be irrevocable and replenished from time to time such that an amount of Rs.422.71 millions (Rupees Four hundred and Twenty two and seventy one millions only) or Rs. 132.26 millions (Rupees One Hundred and Thirty Two and Twenty Six millions only), as the case may be, is available in immediate cash to the Concessing Authority for the entire period of the Construction Phase.

- (e) Failure of the Concessionaire to provide a valid Performance Guarantee and/or restore and maintain the Performance Guarantee in accordance with this Article 4.1 shall entitle the Concessing Authority to forthwith terminate this Agreement and also if relevant, to forfeit the Bid Security and Additional Guarantee (if provided by the Concessionaire).

4.2 Additional Guarantee

- (a) As token of commitment for undertaking commencement and execution of Phase-II, the Concessionaire shall submit an unconditional and irrevocable bank guarantee of Rs.25.00 Crores (Rupees Twenty Five Crores only) , in favour of the Concessing Authority, encashable and enforceable at **Visakhapatnam** substantially in the form set forth in Appendix 18 (“**Additional Guarantee**”). The Additional Guarantee shall be valid until expiry of 46 (forty six) months from the date of execution of this Agreement. It is, however, clarified that the validity period of the Additional Guarantee may be extended by the Concessing Authority if the Date of Award of Concession is not attained on the expiry of 120 (one hundred twenty) days from the date of execution of this Agreement. In case of such extension, the total validity period of the Additional Guarantee will be 46 months plus number of days for which the Date of Award of Concession is delayed beyond 120 days from the date of execution of this Agreement. The Concessionaire shall be obliged to furnish fresh Additional Guarantee of the aforesaid total validity period within 7 (seven) days from the date on which the intimation to that effect is given by the Concessing Authority to the Concessionaire. Upon furnishing of the aforesaid fresh Additional Guarantee by the Concessionaire, the Concessing Authority shall return the original Additional Guarantee of 46 months validity period to the Concessionaire.
- (b) The Additional Guarantee submitted by the Concessionaire shall be returned by the Concessing Authority to the Concessionaire after expiry of its validity period.

For ESSAR VIZAG TERMINALS LIMITED


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ARTICLE 5
INDEPENDENT ENGINEER

5.1 Independent Engineer

- (a) The Independent Engineer shall be selected through a tender process. The Concessions 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 Concessions 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 Concessions Authority does not receive any objection from the Concessionaire with reasons therefor, the Concessions 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 Concessions Authority and Persons against whom such objections are raised will at the discretion of the Concessions 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 Concessions Authority and Concessionaire, equally.
- (d) If the Concessions 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 Concessions 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.
- (f) Independent Engineer will be engaged for Phase-I and Phase-II separately.

ARTICLE 6

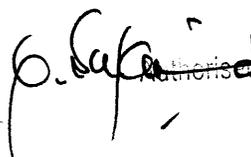
PROJECT IMPLEMENTATION

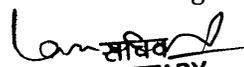
6.1 Preparation of Designs and Drawings

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

- (i) 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 Concessions Authority with a set of the Designs and Drawings.
- (ii) 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 Concessions 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.
- (iii) 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.
- (iv) 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.
- (v) 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 Concessions 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.
- (vi) 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.
- (vii) 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


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to the Project or any part thereof and accordingly the Concessionaire shall at all times remain responsible for its obligations under this Agreement.

- (viii) 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.
- (ix) 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

(a) OUTER HARBOUR

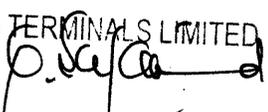
The Concessionaire shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule for Phase I and shall also obtain from the Independent Engineer a certificate as to completion of construction of Project Facilities and Services in relation to Phase I, 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.

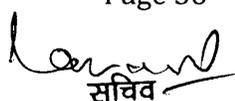
(b) INNER HARBOUR (WEST QUAY-1)

The Concessionaire shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule for Phase II and shall also obtain from the Independent Engineer a certificate as to completion of construction of Project Facilities and Services in relation to Phase II, in accordance with the provisions of this Agreement ("Completion Certificate") not later than 24 (twenty four) Months from the date on which the Conditions Precedent for Phase II are satisfied / complied with by the Concessionaire and the Concessions Authority.

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:

For ESSAR VIZAG TERMINALS LIMITED

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- (a) undertake strengthening of existing structures after detailed assessment based on non-destructive tests, geo-technical investigations any other investigations as per requirement to ensure design of the structure based on the soil conditions of the site.
- (b) undertake the Capital dredging of 60 mtrs. on either side of Ore Berths from the existing level of (-) 18.00 mtrs. to (-) 20.00 mtrs., including the extended portion of the berth and maintain the same.
- (c) undertake the project facilities and requirements as set out in Appendix - 4 and as detailed in the TEFRR.
- (d) arrange for, in a timely manner all necessary financial and other resources required for construction and installation of the Project Facilities and Services.
- (e) engage professionally competent Persons for project management and construction and ensure that all works are carried out in compliance with the Construction Standards;
- (f) 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;
- (g) 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;
- (h) 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 Concessioneaire from its obligations or liabilities under this

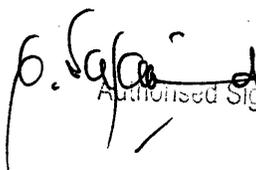
Agreement in respect of such work;

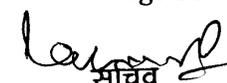
- (i) provide monthly reports on the progress of Construction Works or such other relevant information as may be required by the Independent Engineer;
- (j) promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Independent Engineer 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
- (k) 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 Concessions Authority

In addition to any of its other obligations under this Agreement, during the Construction Phase, the Concessions 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


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Services as ready for operation in accordance with the provisions of Section 37 of the MPT Act;

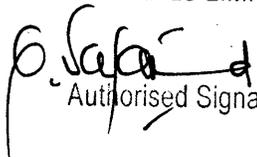
- (d) upon written request from the Concessionaire, assist the Concessionaire, on a best effort basis, in obtaining immigration clearances, employment permits and residential premises for any foreign personnel engaged or employed by the Concessionaire in connection with the implementation of the Project; 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 Concessions 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 Concessions 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 Concessions Authority and thereupon represent to the Concessions 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

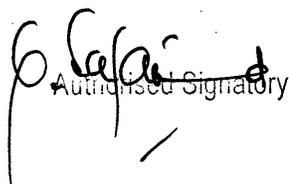
- (a) At least 60 (sixty) Days prior to the likely completion of Phase I and/or Phase II, as the case may be, the Concessionaire shall notify the Independent Engineer of the date when it intends to commence commercial operations of Phase I or Phase II. The Independent Engineer shall then proceed to inspect the Construction Works with the


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intention of issuing the Completion Certificate in respect of completion of Phase I or Phase II, as the case may be, 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 Phase I or Phase II, as the case may be, 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 Phase I or Phase II, as the case may be, of 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 in respect of Phase I or Phase II, as the case may be, 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 of Phase I or Phase II, as the case may be. 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


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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 in respect of Phase I or Phase II, as the case may be, 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 work in relation to Phase I or Phase II, as the case may be, 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 or any of the phases 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 or any of the phases 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 there under (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 Concessions 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 in relation to Phase I and Phase II, jointly and severally, 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 Concessions 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 Concessions 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 Concessions Authority to determine the accuracy thereof. Within 30 (thirty) Days of receipt of such bills, the Concessions 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 Concessions 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.

- (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

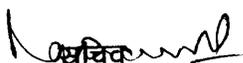
Subject to any of the provisions of this Agreement providing for extension of time for performance or excuse from performance, as the case may be, of any of the obligations of the Concessionaire under this Agreement, the Concessionaire shall pay to the Concessioneing Authority liquidated damages at the rate of 0.1% (zero point one percent) of the Performance Guarantee as applicable during Phase I and/or Phase II, as the case may be, 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 as applicable to Phase I and/or Phase II, as the case may be, 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 as applicable to Phase I and/or Phase II, as the case may be, the Concessioneing Authority shall be entitled to terminate this Agreement or Phase II, as the case may be, 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 applicable during Phase I and/or Phase II, as the case may be.

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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:**

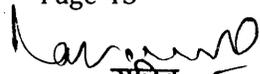
The Concessionaire shall:

- (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

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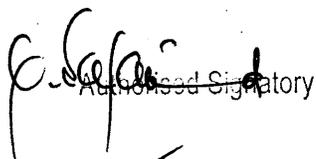

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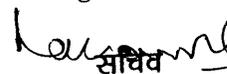
- or discriminatory practice against any user or potential user thereof;
- (i) ensure maintenance of proper and accurate record / data / accounts relating to operations of the Project Facilities and Services and the revenue earned there from;
 - (j) obtain, maintain and comply with Applicable Permits 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 Concessions Authority is authorized to perform, undertake or provide under the provisions of the MPT Act;
 - (l) prevent, with the assistance of concerned law enforcement agencies, any encroachment or unauthorized use of the Project Facilities and Services;
 - (m) carry out capital dredging at the berth to (-)16.10m depth to cater to vessels with 14.10 m draft in phases duly synchronizing with the deepening plans of the Concessions Authority; and
 - (n) carry out capital dredging on either side of ore berths (OB-I & OB-II) from the existing level of (-) 18 meters to (-) 20 meters including the extended portion of the berth and maintain the same as set out in Appendix 4. The same shall be maintained by the Concessionaire during the entire Concession period, including conducting periodical hydrographic surveys to ensure the same. Deepening shall be carried out by the concessionaire as per the developmental plans of the Concessions authority.

(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;
- (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


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Facilities and Services to be transferred to the Concessions Authority upon expiry of the Concession Period are in good condition, normal wear and tear excepted;

- (c) carry out capital dredging and maintenance dredging of 60 meters on either side of ore berths (OB-I & OB-II) from the existing level of (-) 18 meters to (-) 20 meters including the extended portion of the berth and maintain the same as set out in Appendix 4. The same shall be maintained by the Concessionaire during the entire Concession period, including conducting periodical hydrographic surveys to ensure the same. Deepening shall be carried out by the concessionaire as per the developmental plans of the Concessions authority. The berth structure shall be handed over to Concessionaire on as in where is basis on the date of award of concession. The ore berths need to be strengthened by the concessionaire duly examining and checking the adequacy based on the existing structure, conditions etc. Any modifications / developments/consequential works/rectifications/making good of the damages etc. as required shall be at the cost, risk and responsibility of the concessionaire; and
- (d) carry out maintenance dredging at the berth ultimately to a depth of (-) 16.10m in phases as set out in Appendix 4 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 Concessions 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 Concessions Authority

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

(vii) Access for Inspection

The Concessionaire shall be obliged to extend all co-operation to Experts appointed by the Concessions 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 Concessions Authority provide the authorized representatives of the Concessions 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 Concessions 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 Concessions 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 Concessions Authority may require from time to time. If so desired by the Concessions 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.

(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.

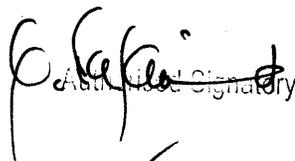
All labour law compliances shall be that of the Concessionaire alone.

(xii) **Minimum Guaranteed Cargo**

The Concessionaire hereby unconditionally guarantees the Concessions 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 Concessions 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


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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 Concessionaire

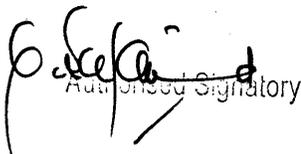
(i) Preferential and Priority Berthing

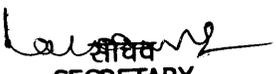
The Concessionaire may offer preferential or priority berthing to any one or more shipping lines or vessel owners/operators to optimize the use of the Project Facilities and Services. Such preferential or priority berthing shall be subject to the priority berthing norms as may be mutually determined 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


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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) deepening of existing approach channel of 250 meter width from the existing level of (-) 20 meters to (-) 22 meters ultimately in future as per the development plans of the Concessioneing Authority;
- (c) maintenance of the inner harbour entrance channel depth at (-) 16.10 m. to cater to vessels with 14 m draft in phases duly synchronizing with the deepening plans of the Concessioneing Authority;
- (d) maintenance of the dredged depth at berth in the area beyond 50m. from the face line of the berth at (-)16.10 m. to cater to vessels with 14 m draft in phases duly synchronizing with the deepening plans of the Concessioneing Authority and maintenance of commensurate dredged depths at Turning Basin including access channels;
- (e) waterside safety and safety of navigation;
- (f) deepening of the turning circle in the outer harbor to be dredged to (-) 21 meters from the existing level of (-) 19 meters ultimately in future as per the development plans of the Concessioneing Authority;

- (g) maintenance of commensurate dredged depths at Turning Basin including access channels;
- (h) carry out maintenance dredging operations, if any that may be required 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;
- (i) 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;
- (j) Provide for / put in place arrangements for provision of Supporting Project Infrastructure other than those covered under the Concession;
- (k) 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
- (l) 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.

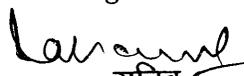
7.2 Utilities and Services

The Concessions Authority shall during the Concession Period provide access to the Concessionaire to all infrastructure facilities and utilities including water, electricity and telecommunication 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:

For ESSAR VIZAG TERMINALS LIMITED


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- (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;
- (c) the Concessionaire shall, at its cost, and to the satisfaction of the Concessions Authority, install meters to measure the consumption of power and water. The Concessions 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; and
- (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 Concessions 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 Concessions 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 Concessions Authority which shall be considered by the Concessions Authority on merits and the Concessions 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 Concessions Authority upon a Concessionaire Event of Default as set out in Article 15 including the Concessions Authority's right to terminate this Agreement which shall remain unaffected.

For ESSAR VIZAG TERMINALS LIMITED


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ARTICLE 8

TARIFF

8.1 Levy and Recovery of the Tariff

- (a) 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.
- (b) The Concessionaire hereby acknowledges and agrees that it is not entitled to any revision of Tariff or other relief from the Concessions 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 Concessions 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 Concessions Authority, on behalf of the Concessions Authority and remit the same to the Concessions Authority. Provided, the Concessionaire shall be duly authorized by the Concessions Authority or such other authority as may be competent in this regard, for the purpose of such collection.

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ARTICLE 9

PAYMENTS TO THE CONCESSIONING AUTHORITY

9.1 License Fee

(a) (i) The Concessionaire shall, as consideration for the use, in its capacity as a bare licensee of the Project Site and the equipment comprised in the Port's Assets, made available in accordance with Article 2.4, pay to the Concessioning Authority the sum of Rs.95.13 million (Rupees Ninety five decimal thirteen million only) as specified in the bid documents (the "License Fee") for the extent of land measuring a) zone II A1 – 83.42048 acres (337591.00 Sq.mtrs) -Rs.79333885.00 b)-zone VIII–11.43998(46296 Sq.Mtrs) Rs. 4935153.60 c) IX A-24.580785 acres (99475.0)-Rs.10856701.50 Total (a+b+c) – 119.441245 acres (483362.00 Sq.Mtrs), of OHC for the development of stack yard (including handling facilities), with an escalation of 2% per annum. The present applicable rates in respect of land utility and services are as per Appendix 13. The Concessionaire shall pay such License fee in advance, every year and the first of such payments to be made on or before the Date of Award of Concession. In addition to the above, the concessionaire shall pay for the above land, one year license fee of Rs.95.13 millions (Rupees Ninety Five decimal thirteen millions only) as aforesaid non-refundable premium (one time payment) and five (5) years license fee of Rs.475.65 millions (Rupees four hundred and seventy five decimal and sixty five millions only) as refundable security deposit which can be in the form of Bank Guarantee.

(ii) The Concessionaire shall, as consideration for the use, in its capacity as a bare licensee of the Project Site and the equipment comprised in the Port's Assets, made available in accordance with Article 2.4, pay to the Concessioning Authority the sum of Rs. 17.28 million (Rupees seventeen decimal two eight million only) as specified in the bid documents (the "License Fee") for the extent of land measuring 76,380 Sq.m. for the development of stack yard (including handling facilities) on West side of WQ-1 berth which is contiguous to the berth back up space with an escalation of 2% per annum. The present applicable rates in respect of land utility and services are as per Appendix 13. The Concessionaire shall pay such License fee in advance, every year and the first of such payments to be made on or before commencing construction of Phase II. In addition to the above, the concessionaire shall pay for the above land, one year license fee of Rs.17.28 millions (Rupees Seventeen decimal two eight millions only) as aforesaid non-


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refundable premium (one time payment) and five (5) years license fee of Rs.86.42 millions (Rupees eighty six decimal and four two millions only) as refundable security deposit which can be in the form of Bank Guarantee.

(iii) The concessionaire shall also pay to the Concession Authority one time upfront fee of Rs.1858.70 million (Rupees One thousand Eight hundred fifty eight decimal and seventy millions only) towards the value of the existing plant and machinery along with civil structural excluding land cited above of ore handling complex made available by the Concessioning Authority, before the Date of Award of Concession.

- (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 31.0100% (Thirty One decimal Zero One Zero Zero percent) of the Gross Revenue chargeable by the Concessionaire ("the Royalty").

It is further clarified that during the construction of Phase I, the Concessionaire shall be responsible to pay to the Concessioning Authority Royalty equivalent to 31.0100% (Thirty One decimal Zero One Zero Zero percent) of the Gross Revenue chargeable by the Concessionaire on the actual cargo handled by the Concessionaire during the construction of Phase I.

Without prejudice to Article 9.2(d) below, it is further clarified that the payment of Royalty on the actual cargo handled by the Concessionaire during the construction of Phase I shall commence from the Month in which the Concessionaire commences to handle the said cargo.

- (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 twice the Scale of Rates for utilities and services and Schedule of Rates in respect of land 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.


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The Concessing 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 Concessing Authority and report to the Concessing Authority such information as may be desired by the Concessing 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 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 Concessing 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

- (a) 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 or any part thereof (including Phase I and Phase II) and all revenues and other receipts arising from the Project or any part thereof 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 Concessing 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 Concessing

Authority or such other authority.

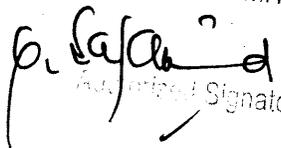
- (b) Withdrawals and appropriations during the Concession Period, at any relevant time, from the Escrow Account shall be in the following order of priority:
- (i) for all taxes due and payable by the Concessionaire;
 - (ii) towards payment of License Fee;
 - (iii) all construction / implementation expenses 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 Concessioning Authority and the Lenders.
- (c) 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;


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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 Concessing Authority.

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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.

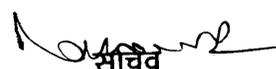
(b) Assets created or provided by the Concessionaire

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.


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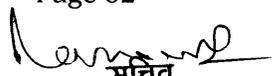
Provided further, that such charge shall not be for the Project Site nor encumber the Project Site and / or the Port's Assets.

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.

For ESSAR VIZAG TERMINALS LIMITED


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ARTICLE 11
SHAREHOLDING

11.1 Ownership Structure

The Applicant 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.

11.2 Shareholding

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

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 Concessioning 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 Concessioning Authority as stated hereinbefore and in accordance with the Financing Documents.

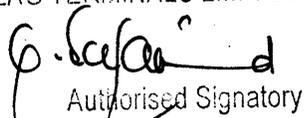
11.3 Constituent Documents

The Concessionaire shall ensure that its articles of association adequately reflect the aforesaid and the relevant commitments, obligations and responsibilities of the Applicant.

In particular, the articles of association and the memorandum of association 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 articles of association and the memorandum of association to the Concessing Authority as soon as may be reasonably possible.

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

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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.

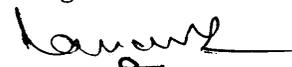
(c) Insurance

(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 Concessions 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 Concessions 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)


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(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 Concessioning 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 Concessioning Authority. Each insurance policy shall provide that the same shall not be

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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, interalia, 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.

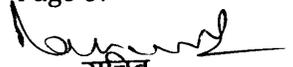
(d) Indemnification

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

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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 Concessions 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:

- (a) 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 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 Concessing 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.
- (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 Concessing 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 Concessions 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 Concessions Authority a guarantee issued by a scheduled bank in India for a sum of Rs.422.71 millions (Rupees four hundred and twenty two and seventy one millions 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 Concessions Authority shall accordingly be entitled to terminate this Agreement in accordance with Article 15.

12.2 Of the Concessions Authority

(a) Assistance in obtaining Approvals, Permits and Licenses

The Concessions 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 Concessions Authority.

(c) Competing Facilities

The Concessions Authority shall not operationalise any additional facility within Port Limits for handling iron ore dry bulk cargo 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 East quay(EQ-8)&East quay(EQ-9) and to the additional facility envisaged as below:

- (i) Development of W.Q North (W.Q.7 & 8 Berth) with mechanized handling facilities for handling dry bulk cargo on DBFOT basis in inner harbor of Visakhapatnam Port.
- (ii) Development of E.Q.10 Berth in the northern arm of inner harbour of Visakhapatnam Port for handling liquid cargo like bio diesel, caustic soda, edibles oils and chemicals on DBFOT basis.
- (iii) Development of E.Q.1A Berth on south side of EQ 1 Berth for handling thermal coal and steam coal in inner harbor of Visakhapatnam Port on DBFOT basis.
- (iv) Development of E.Q.1 Berth by replacing E.Q. 1 Berth and part of E.Q. 2 Berth for handling steam coal in inner harbor of Visakhapatnam Port on DBFOT basis.
- (v) Development of W.Q.6 Berth in the northern arm of inner harbor of Visakhapatnam Port for handling dry bulk cargo like C.P. Coke, L.A.M. Coke, steel and granite blocks on DBFOT basis.
- (vi) Mechanization of coal handling facilities and up-gradation of General Cargo Berth (GCB) at Outer Harbour of Visakhapatnam Port to cater 2,00,000 D.W.T. vessels on DBFOT basis.
- (vii) Extension of the existing container terminal at Visakhapatnam Port Trust on DBFOT basis.

(d) General rights of inspection and verification

The Concessions 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 Concessions 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.

For ESSAR VIZAG TERMINALS LIMITED


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(b) Rights to Documents

(i) Concessioning Authority's Documents

Documents and computer programs or copies thereof, if any, provided by the Concessioning Authority to the Concessionaire, shall always remain the property of the Concessioning 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 Concessioning Authority, be returned by the Concessionaire to the Concessioning 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 Concessioning Authority free of cost on the Transfer Date.

(iii) Confidentiality

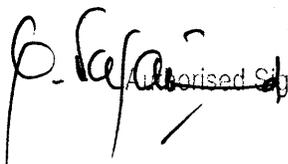
All confidential information and documents (whether financial, technical or otherwise) provided by either Party to the other shall not, unless compelled by law or the process of a Government Authority, be disclosed to any Person without the consent of the other Party with the exception of providing such information to legal advisors/auditors of the concerned party on a need-to-know basis. This covenant shall survive the Concession Period.

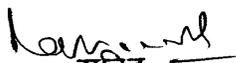
(iv) Obligation to Cooperate

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 Concessioning 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

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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 Rs422.71 Millions (rupees Four hundred and twenty two decimal seven one millions only) may at the option of the Concessions Authority be borne by the Concessions Authority. It is clarified that Additional Cost upto Rs422.71 Millions (rupees Four hundred and twenty two decimal seven one millions only) in any accounting year shall be borne by the Concessionaire.
- (c) Upon occurrence of a Change in Law, the Concessionaire shall notify the Concessions 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 Concessions 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 Concessions 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 Concessions Authority shall, within 30 (thirty) Days from the date of determination of quantum of Additional Cost to be borne by the Concessions Authority in accordance with sub-article (b) above, compensate the Concessionaire in either of the following ways:

ARTICLE 14
FORCE MAJEURE

14.1 Force Majeure Event

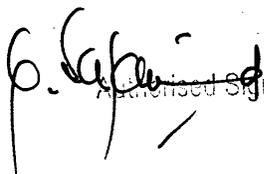
As used in this Agreement, Force Majeure Event means the occurrence of any of the Non-Political Events, the Political Events or the Other Events in India, set out in Articles 14.2, 14.3 and 14.4 respectively including the impact / consequence thereof which:

- (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


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- (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:

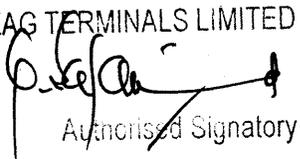
- (a) Change in Law for which no relief is provided under the provisions of Article 13, resulting in Material Adverse Effect;
- (b) action of a Government Authority having Material Adverse Effect including but not limited to (i) acts of expropriation, compulsory acquisition or takeover by any Government 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 Concessing 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

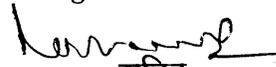
Any of the following events which prevents the Affected Party from performing any of its obligations under this Agreement for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute the Other Event:

- (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;
- (d) any judgment or order of a court of competent jurisdiction or statutory authority in

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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.

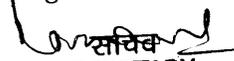
14.5 Notice of Force Majeure Event

- (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.

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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.

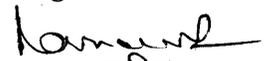
14.10 Termination Due to Force Majeure Event

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.

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ARTICLE 15
EVENTS OF DEFAULT

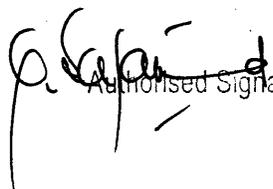
15.1 Events of Default

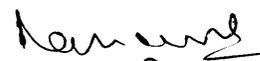
Event of Default means the Concessionaire Event of Default or the Concessions Authority Event of Default or both as the context may admit or require.

(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 Concessions Authority Event of Default or a Force Majeure Event:

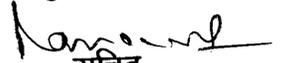
- (i) the Concessionaire's failure to perform or discharge any of its obligations, including obligations in relation to execution of Phase I and/or Phase II, as the case may be, in accordance with the provisions of this Agreement;
- (ii) construction of Phase I and/or Phase II, as the case may be, at 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 or any part thereof, materially;
- (vi) 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;
- (vii) any representation made or warranties given by the Concessionaire under this Agreement is found to be false or misleading;


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- (viii) the Concessionaire passing a resolution for voluntary winding up;
- (ix) 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;
- (x) 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;
- (xi) 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 or any part thereof, materially and such execution or distraint remaining in force for a period exceeding 90 (ninety) Days;
- (xii) the Performance Guarantee and/or the Additional Guarantee is not provided or maintained in terms of the provisions hereof;
- (xiii) the Concessionaire abandons or expresses its intention to revoke / terminate this Agreement and/or Phase I and/or Phase II or any part thereof, without being entitled to do so as is expressly provided in the Agreement;
- (xiv) a change in shareholding such that the beneficial interest of the Applicant 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;
- (xv) 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
- (xvi) the Concessionaire engaging or knowingly allowing any of its employees, agents, Contractor or representative 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.


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(b) The Concessions Authority Event of Default

- (i) the Concessions 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 Concessions 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 Concessions 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 Concessions 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 in respect of Phase I, the Concessions Authority shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement. However, in the event of the Concessionaire Event of Default in respect of Phase II, the Concessions Authority shall be entitled to terminate only Phase II and not the entire Agreement.

- (a) Upon the occurrence of the Concessions Authority Event of Default in respect of Phase I, the Concessionaire shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement. However, in the event of the Concessions Authority Event of Default in respect of Phase II, the Concessionaire shall be entitled to terminate only Phase II and not the entire 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

For ESSAR VIZAG TERMINALS LIMITED


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15.3 Consultation Notice

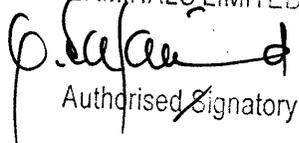
Either Party exercising its right under Article 15.2, shall issue to the other Party a notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties and the Lenders to consider possible measures of curing or otherwise dealing with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

For ESSAR VIZAG TERMINALS LIMITED


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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 or Phase II, as the case may be, 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.

For ESSAR VIZAG TERMINALS LIMITED


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ARTICLE 16

TERMINATION OF THE CONCESSION/AGREEMENT

16.1 Termination Procedure

The Party entitled to terminate this Agreement or Phase II, as the case may be, 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 or Phase II, as the case may be, 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

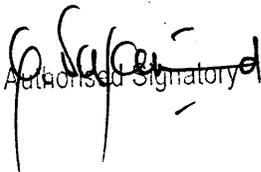
Except where the Termination Notice is issued prior to Financial Close being achieved by the Concessionaire whether in relation to Phase I and/or Phase II, as the case may be, when the Concession has not come into effect the Concessionaire has no right hereunder and no compensation is payable by the Concessions 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 Concessions Authority shall by a notice in writing ("**Requisition**") call upon the Concessionaire to furnish the following information to enable the Concessions Authority to estimate the likely compensation payable by the Concessions 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 Concessions Authority:

- (a) except in cases where no Financial Close in relation to Phase I and/or Phase II, as the case may be, 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 regarding the operation and maintenance of the Project Facilities and Services or any part thereof;
- (c) specifications regarding the Concessionaire's assets comprised in the Project Facilities and Services or any part thereof; 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 Concessions 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 Concessions 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 Concessions 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 takeover of the same by the Concessions Authority on the Transfer Date.
- (b) If, as a result of the condition survey, the Concessions 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 Concessions Authority may itself cause the condition survey and inventory


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of Port's Assets and the Project Facilities and Services to be conducted. The Concessions 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 (i) expiry of the Concession Period by efflux of time, or (ii) termination of the Agreement or Phase II, as the case may be, due to a Force Majeure Event or on account of an Event of Default in accordance with Article 18;
- (b) the Concessions Authority shall be entitled to encash any subsisting bank guarantee(s) provided by the Concessionaire against any amounts owing to the Concessions 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 Concessions 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 or any part thereof by the Concessionaire to the Concessions Authority shall be free from any such obligation.


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ARTICLE 17
COMPENSATION

17.1 Compensation

(a) Termination due to Force Majeure Event

- (i) If the termination of the Agreement or Phase II, as the case may be, 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 of the Agreement or Phase II, as the case may be, is due to an 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 of the Agreement or Phase II, as the case may be, 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.

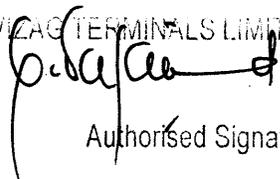
Provided further that no compensation whatsoever in respect of Phase II of the Project shall be payable to the Concessionaire if the Concessionaire fails to commence Phase II of the Project and as a consequence thereof Phase II is terminated.

(b) Termination due to Concessionaire Event of Default

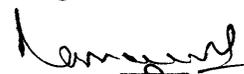
If the termination of the Agreement or Phase II, as the case may be, is after the Date of Commercial Operation, due to a Concessionaire Event of Default, the compensation payable by the Concessioneing Authority to the Concessionaire shall be the lowest of:

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

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(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.

Provided further that no compensation whatsoever in respect of Phase II of the Project shall be payable to the Concessionaire if the Concessionaire fails to commence Phase II of the Project and as a consequence thereof Phase II is terminated.

(c) Termination due to Concessioning Authority Event of Default

If the termination the Agreement is due to a Concessioning Authority Event of Default, the compensation payable by the Concessioning 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 Encumbrance.

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 or any part thereof consequent to the expiry or termination of this Agreement or Phase II, as the case may be, 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 Concessioning Authority in the event of termination due to an Concessioning 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 Concessioning 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 Concessioning Authority shall stand duly discharged of its obligations regarding payment of


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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 Concessions 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 Concessions Authority in accordance with this Article 17.4 shall be a valid discharge to the Concessions Authority in respect of Concessions 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 Concessions 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 Concessions Authority, the compensation shall be paid by the Concessions Authority to the Concessionaire directly.

17.5 Delayed Payment of Compensation

If for any reasons, other than those attributable to the Concessionaire, the Concessions Authority fails to pay the compensation on the Transfer Date, the Concessions 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.

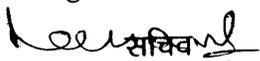
17.6 Delayed Transfer of Assets

If for any reasons other than those attributable to the Concessions 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 or any part thereof and the Concessionaire shall, as a trustee of the Concessions Authority, (a) continue to operate and maintain the Project Facilities and Services or such of them, as directed by Concessions Authority until completion of the relative transfer formalities and (b) account for and pay to the Concessions 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 Concessions Authority, for every Day of delay, liquidated damages computed at the rate of the average daily

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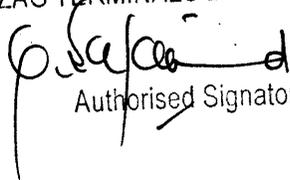
profits earned during the 3 (three) years immediately preceding the Transfer Date. Parties confirm that this is a true and correct estimate of damages and not in the nature of a penalty. Provided nothing contained in this Article 17.6 shall be deemed or construed to authorise delay in completion of formalities of transfer of assets, rights and contracts or any of them by the Concessionaire to the Concessions Authority in accordance with the requirements thereof under this Agreement.

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

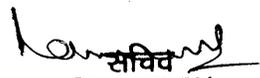
17.7 Remedies Cumulative

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.

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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 Concessing Authority may require and which can be legally transferred. Provided if the termination is on account of Concessing Authority Event of Default the cost of such transfer shall be borne / reimbursed by the Concessing 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 Concessing Authority in terms of the provisions of this Agreement.

It is clarified that if Phase II is terminated after the Date of Commercial Operation, the Concessionaire shall be obliged to perform the obligations stated in Article 18.2 above in proportionate manner in respect of Phase II. It is further clarified that no compensation whatsoever in respect of Phase II of the Project shall be payable to the Concessionaire if the Concessionaire fails to commence Phase II of the Project and as a consequence thereof Phase II is terminated.

18.3 Concessing Authority's Obligations

Except in the event of expiry of the Concession by efflux of time, the Concessing 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 Concessing 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 Concessing Authority in accordance with this Article 18.3 shall be a valid discharge to the Concessing Authority in respect of Concessing 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 Concessing 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 Concessions 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 Concessing 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

For ESSAR VIZAG TERMINALS LIMITED


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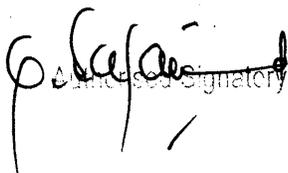
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- any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (j) all its rights and interests in the Project/Project Facilities and Services shall pass to and vest in the Concessions 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 Concessions 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 Concessions 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 Concessions 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 Concessions Authority

The Concessions 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


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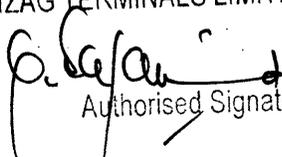
Concessions Authority, enforceable against it in accordance with the terms hereof;
and

- (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.

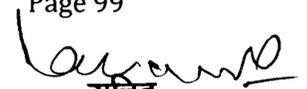
20.3 Disclosure

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.

For ESSAR VIZAG TERMINALS LIMITED


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ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 Datum

The datum to which all levels shall be referred for the purpose of the Project is below mean sea level or such levels as notified by the Concessions 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 Concessions 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:

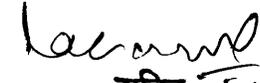
The Concessions Authority:

CHAIRMAN
VISAKHAPATNAM PORT TRUST
VISAKHAPATNAM – 530 035
Fax No: +91-891-2565023
Email: info@vizagport.com

The Concessionaire:

The CHIEF EXECUTIVE OFFICER
ESSAR VIZAG TERMINALS LIMITED
C/O ESSAR STEEL INDIA LIMITED
NEAR FLYOVER, SCINDIA ROAD
VISAKHAPATNAM 530 004.
ANDHRA PRADESH
INDIA.
Fax No. 0891-2870330
Email: satyanand@essar.com


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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

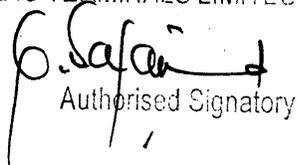
This Agreement and the Appendices together constitute a complete and exclusive statement of the terms of the agreement between the Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement unless specifically retained in this Agreement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

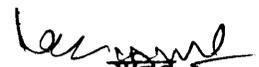
Common Seal of the Concessing Authority is affixed pursuant to Agenda Item S-16, Resolution No.140/2013-14, Meeting No.7/2013-14, dt.15.11.2013 of the Board of Trustees of Visakhapatnam Port Trust in the presence of Shri D. Naresh Kumar, who has signed this Agreement in token thereof.

Signed and Delivered by the Concessionaire by the hand of its authorized representative Shri CH. Satyanand, pursuant to Resolution dated 25th October, 2013 of its Board of Directors.

For ESSAR VIZAG TERMINALS LIMITED


Authorized Signatory

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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 existing Ore Handling Complex is proposed to be upgraded/replace the existing equipments to cater 2,00,000 DWT vessels and WQ-1 berth proposed to be mechanized in the inner harbor is as shown in the drawing given in the TEFR

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.

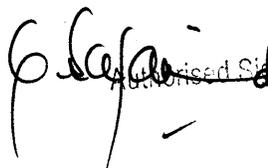
2.0 CLIMATE AND METROLOGICAL CONDITIONS

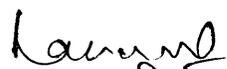
2.1 Climate

General:

Visakhapatnam has a tropical climate with little variation in temperature through the year. May is the hottest month with average temperatures around 32°C (90°F), while January is the coolest month with average temperatures near 23°C (73°F). As the city is located on the Bay of Bengal, the humidity remains high throughout the year. The total annual rainfall is around 955 mm (38 inches), the bulk of which is received during the South-West monsoon. October is the wettest month with around 204 mm (8 inches) of rainfall.

The climate of this region is governed by its location in the tropics and the monsoons. The port is located in the South-East coast of the Bay of Bengal, which is characterised by the recurring seasonal monsoons. The monsoons divide the year into four seasons namely:


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- i) The North-East monsoon from end of November to end of February with predominantly North Easterly winds; cyclones are frequent during November.
- ii) 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 in the month of May.
- iii) The South-West monsoon period falls between May and September with predominantly South-Westerly winds, cloudy weather and frequent rains
- iv) The post-monsoon period is from middle of October to 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.

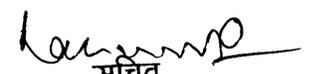
The table 4.1 given overleaf gives a comprehensive detail on the climate of Visakhapatnam.

TABLE: 4.1
CLIMATOLOGICAL TABLE
PERIOD: 1951-1980

Month	Mean Temperature(°C)		Mean Total Rainfall (mm)	Mean Number of Rainy Days	Mean Number of days with			
	Daily Minimum	Daily Maximum			HAIL	Thunder	FOG	SQUALL
Jan	18.0	28.9	11.4	0.5	0.0	0.2	0.5	0.0
Feb	19.9	31.3	7.7	0.5	0.0	0.5	0.2	0.1
Mar	23.0	33.8	7.5	0.5	0.0	1.8	0.1	0.1
Apr	26.1	35.3	27.6	1.2	0.0	5.0	0.0	0.8
May	27.7	36.2	57.8	3.0	0.0	8.6	0.1	2.1
Jun	27.3	35.3	105.6	6.4	0.0	10.2	0.1	2.3
Jul	26.1	32.9	134.6	8.7	0.0	6.9	0.0	1.1
Aug	26.0	32.7	141.2	9.3	0.0	8.0	0.0	1.5
Sep	25.6	32.5	174.8	9.9	0.0	11.4	0.0	1.2
Oct	24.3	31.7	204.3	8.7	0.0	8.2	0.0	0.9
Nov	21.6	30.4	65.3	2.7	0.0	1.5	0.0	0.2
Dec	18.6	28.9	7.9	0.6	0.0	0.0	0.0	0.0
Annual	23.7	32.5	968.8	52.0	0.0	62.3	1.0	10.3

(Source: Indian Meteorological Department (from RITES report))


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2.1.1 Temperature:

The annual mean maximum temperature is 31°C and the annual mean minimum temperature is 23.5°C. The highest temperature recorded in May and June and the lowest in December and January. The highest temperature recorded was 44°C and the lowest temperature recorded was 12.8°C.

2.1.2 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%.

2.1.3 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 167.3mm and 259.3mm respectively. The average annual rainfall is about 973.6mm. The average annual rainfall is about 973.6mm. The average number of rainy days per year is 50.

2.1.4 Wind

The predominant direction of wind is South-West and North-East for most of the time. The maximum wind speed recorded is 110KMPH.

2.1.5 Cyclones

Cyclones are common to occur in the Bay of Bengal. Average number of cyclones occurring at Vishakhapatnam is 3 to 4 per year. Cyclonic storms and depressions occur with greatest frequency is August, October and November generally.

2.1.6 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.

2.2 Oceanographic Data

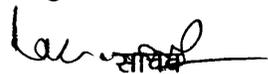
2.2.1 Tides

Visakhapatnam has semi diurnal tides. The tidal levels as per naval hydro graphic chart no. 3012 are as follows:

Highest with regard to chart datum

Highest High water recorded:	+2.06m
Mean high water level spring:	+2.06m


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Mean high water level neap:	+1.50m
Mean sea level:	+0.80m
Mean low water level spring:	-0.16m
Mean low water level neap:	+0.50m
Lowest low water level recorded (March 2007):	-0.39m

(The above levels are with respect to chart datum. The chart datum at Visakhapatnam is 0.8 m below mean sea level.)

This data is collected from the techno-economic feasibility report prepared by the Port for outer harbour dredging project in October 2012.

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

2.2.2 Waves

Waves heights upto 5.20m are recorded outside the breakwaters of the Outer Harbour during storms. The significant wave height for the design of South Breakwater of the Outer Harbour is 7.50m. Due to the protection afforded by the breakwaters, wave disturbance in the Outer Harbour basin is expected to be less than 1.50m for 94% of time in a year, when the wave height outside the Outer Harbour is less than 3.00 m.

2.2.3 Currents

From February to June, off shore current flow towards North East. From August to December, currents flow towards South-West. The velocity ranges from 0.5 to 1.0 knot. At Visakhapatnam coast, currents are neither related to wind or to tides in any appreciable way. The determining factor for the direction of current is the direction of predominant wave.

2.2.4 Littoral Drift

Littoral drift of the order 0.56 million m³ from south to north during the South West Monsoon and of the order of 0.10 million m³ from north to south during the North East Monsoon, resulting in a net northerly drift of the order of 0.50 million m³ is known to exist annually at Visakhapatnam. A sand trap is incorporated in the layout of the outer harbour on the lee side of the South Breakwater to facilitate collection of the sand drift. During annual maintenance dredging, the sand from the sand trap is dredged and about 0.40 million m³ of sand is annually placed on the shore north of the outer harbour to continue the littoral drift. However, the littoral drift does not affect the location of Ore berth, as the same is within the sheltered Outer Harbour.

2.2.5 Geo technical Conditions

The results of soil investigations carried out in the vicinity of the proposed WQ-1 berth were carried out by Visakhapatnam Port trust and the same is available with the port for reference. The successful concessionaire shall undertake the detailed soil investigations at project site prior to detailed designs.

2.3 EXISTING BERTHS:

The schematic details of the existing berths and approaches are shown in Drg. enclosed in TEFR. The inner harbor has 18 berths and the outer harbor has 6 berths. There are proposals to construct additional berths in the inner harbor and outer harbor.

APPENDIX 2

PORT'S ASSETS

1. The existing Ore berths (OB-I & OB-II) along with the proposed extension including waterfront of the Berth with the existing draft along side the berth.
2. The existing west quay berth (WQ-1) including waterfront of the Berth with the existing draft along side the berth.
3. Access to the outer harbour channel of 1700m length and 200m wide to a depth of 20m. Access to the inner harbour channel of 1620m length and 111m wide to a depth of 11.80 m/ (-) 12.10m dredged depth. There are proposals under process to deepen further to initially (-) 13.5m and (-) 16.10m (ultimately to cater to vessels with 14 m draft) in phases as per the deepening plans of the Concessioning Authority. Access to port for inland transport roads of 85 km length, bridges of 12 km length and railway network of 200 km length.
4. The required extent of land of Ore Handling complex (Outer harbour) measuring a) zone II A1 – 83.42048 acres (337591.00 Sq.mtrs) b)-zone VIII–11.43998 acres (46296 Sq.Mtrs) IX A- 24.580785 acres (99475.0) Total (a+b+c) – 119.441245 acres (483362.00 Sq.Mtrs). The annual lease rents for the land as per schedule of rates in force shall be payable by the concessionaire to Concessioning authority for this land.
5. License fee for storage area for West quay -1(inner harbour) ZONE-II A2 -76,380 Sq.mts. (18.87 acres):

NOTE:

(i) There may be marginal adjustments in the area proposed to be provided to the concessionaire depending on the actual site conditions.

(ii) The payment of license fee for the above assets to be made by the concessionaire to the Concessioning Authority are indicated in relevant Articles/ Appendices of this concession Agreement.

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 – 530035, 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, engineering, designing, finance, construction, development, operation & maintenance of “**Up-gradation of existing facility and creating of new facility at Visakhapatnam Port Trust for iron ore handling through Public-Private Partnership on Design, Build, Finance, Operate and Transfer (DBFOT) basis**” 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.

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory

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ATTORNEY OF THE VPT BOARD
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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 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 Article 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 Article 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 Concessions 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 Concessions Authority shall suspend the

For ESSAR VIZAG TERMINALS LIMITED

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Authorized Signatory

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[Signature]
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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 Concessioning 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 Concessioning Authority may extend the aforesaid period of 180 (one hundred and eighty) Days by a period not exceeding 90 (ninety) Days.

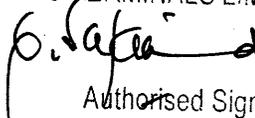
3.3 Substitution upon occurrence of Concessionaire Default

- 3.3.1 Upon occurrence of a Concessionaire Default, the Concessioning 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 Concessioning Authority within the period of 15 (fifteen) Days specified in Article 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 Concessioning 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 Concessioning Authority shall extend the aforesaid period of 180 (one hundred and eighty) Days by a period not exceeding 90 (ninety) Days.

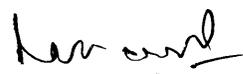
3.4 Procedure for substitution

- 3.4.1 The Concessioning Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Concessioning Authority under Article 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

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to fulfil the eligibility criteria that were laid down by the Concessing Authority for shortlisting the bidders for award of the Concession; provided that the Lenders / Lenders' Representative may represent to the Concessing Authority that all or any of such criteria may be waived in the interest of the Project, and if the Concessing 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 Concessing 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 Concessing 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 Concessing Authority, the Selectee shall be deemed to have been accepted. The Concessing 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 Concessing Authority, the Lenders' Representative may propose another Selectee whereupon the procedure set forth in this Article 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 Concessing 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 Concessing 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 Concessing

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Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Concessing 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 Concessing Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Concessing 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 Concessing 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 Article 3.3.2, the Concessing Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

The Concessing 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

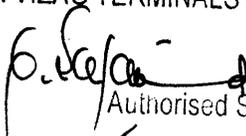
7.1 General indemnity

7.1.1 The Concessionaire will indemnify, defend and hold the Concessions 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 Concessions 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 Concessions 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 Concessions 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.

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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 Article 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

- (a) The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.
- (b) 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.
- (c) The expressions “Concessions 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.
- (d) This Agreement shall not be affected by reorganisation of any Lender, the Concessionaire or Concessions Authority, “Selectee” and the successor in interest of the Lender or Concessions Authority shall have the benefit of this Agreement.
- (e) 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 Concessions 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

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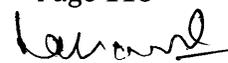
disputes as Sole Arbitrator.

- (f) 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.
- (g) 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.
- (h) This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- (i) 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.
- (j) 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.
- (k) 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.
- (l) 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.

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SCHEDULE A
PARTICULARS OF FINANCIAL ASSISTANCE.

Name and Address of the	Nature and Amount of Financing

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 GOVERNMENT OF INDIA

BY : _____

Name:

Title:

SIGNED AND DELIVERED ON BEHALF OF

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

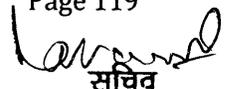
BY: _____

Name:

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APPENDIX 4

PROJECT REQUIREMENTS

PROJECT FACILITIES AND SERVICES:

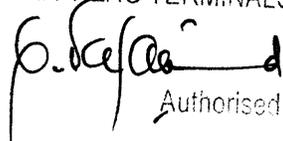
The project requirements are explained in detail in the TEFRR, which is an enclosure to RFP document. However, the Concessionaire on their own shall submit the scheme and design of the Project as per the Clause No.1.1.3 of RFP document. Brief scope of the project includes planning, designing, engineering, financing, construction, management, operation and maintenance of the project, project facilities and services

PROJECT FACILITIES AND REQUIREMENTS:

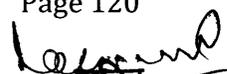
PROJECT REQUIREMENTS

- (A) The scope of the work broadly includes up-gradation of existing mechanized iron ore handling facility of outer harbour to achieve a rated capacity of 8000 TPH and creation of new mechanized facility at West Quay – 1 (WQ-1) berth in the inner harbour of Visakhapatnam Port Trust for handling iron ore (including CLO upto -40 mm, fines and pellets), on DBFOT basis. The traffic of iron ore (including CLO upto -40 mm, fines and pellets), for the year 2021-22 is estimated at 22.5 million tonnes. The assessed capacity of the combined facility at Outer Harbour and Inner Harbour is 23.0 million tonnes. However, keeping in view the present trend in iron ore (including CLO upto -40 mm, fines and pellets) exports and keeping in view the fact that the traffic will increase in a phased manner, it is proposed to take up this project in a phased manner, i.e, PHASE – I envisages “Upgradation of existing mechanized iron ore handling facility of Outer Harbour to achieve a rated capacity of 8000 TPH” and PHASE – II envisages “Creation of mechanized facility at WQ1 berth of Inner Harbour for handling iron ore (including CLO upto -40 mm, fines and pellets)”.
- (B) While Phase – I, i.e., Upgradation of existing mechanized iron ore handling facility of Outer Harbour to achieve a rated capacity of 8000 TPH, shall start immediately from the Date of Award of Concession, upon signing of concession agreement, followed by complying the Conditions Precedent for Phase I as per the Concession Agreement; Phase – II, i.e, Creation of new facility at the WQ1 berth of Inner Harbour, is required to be taken up after fulfillment of the Conditions Precedent for Phase II which shall be fulfilled by the Concessionaire within 180 (one hundred eighty) Days from the date of attaining minimum 12.5 million tonnes of throughput at Outer Harbour or 2 million tonnes of traffic at Inner Harbour, whichever is earlier. It is however, clarified that there is no restriction on the Concessionaire, to execute Phase II co-terminus with Phase I. It is further clarified that in case the Concessionaire intends to execute/commence Phase

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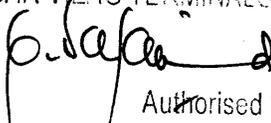

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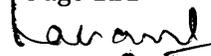

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- II co-terminus with Phase I, then the Concessionaire shall inform in writing to the Concessioneing Authority of its intention to execute Phase II simultaneously with Phase I. In such an event the Conditions Precedent for Phase II shall be satisfied by the Concessionaire within 180 (one hundred eighty) days from the date on which the Concessionaire informs the Concessioneing Authority about its intention to execute Phase II co-terminus with Phase I.
- (C) It is clarified during the implementation and construction of Phase I and/or Phase II, as the case may be, the existing facilities of cargo handling shall not be completely stopped / halted by the Concessionaire and some of such facilities would continue to be operative.
- (D) In case, minimum throughput as detailed in clause (B) above is not achieved within three (3) years from the date of award of concession, the Additional Guarantee (as stated in Article 4.2 of the Concession Agreement) submitted by the Concessionaire as a token of commitment for commencement and execution of Phase II investment will be returned and the Concessioneing Authority shall have the option to take alternative action about WQ1 berth.
- (E) The berth shall be operated for iron ore (including CLO up to -40 mm, fines and pellets) handling at Outer Harbour on exclusive basis. The berth hire shall accrue to the Port
- (F) The Concessionaire acknowledges that the existing pelletisation plant of M/s ESSAR is currently integrated with the existing ore handling complex for loading of their pellets/CLO/fines and also to feed fines to their pelletisation plant. The Concessionaire further acknowledges that an agreement to the above effect is already existing between M/s ESSAR and Visakhapatnam Port Trust which shall be adhered to by the Concessionaire.
- (G) **Upfront fee for the existing facility** -- The existing mechanized iron ore handling facilities of Outer Harbour, which was constructed in the year 1976, are in working condition and are hereby agreed to be handed over by the Concessioneing Authority to the Concessionaire on the Date of Award of Concession upon fulfillment of Conditions Precedent for Phase I. Parties acknowledges that the Project requires replacement of certain vital equipments, strengthening/ modification/ Upgradation etc., as listed above to enhance the loading rate and capacity on the berth. An extent of about Ac.119.44 of land, which is a part of the Project, is agreed to be given on license to the Concessionaire for a period of thirty (30) years as per applicable lease rentals. In this regard, the Concessionaire shall pay to the Concessioneing Authority an amount of Rs.185.87 crores as upfront fee towards value of assets of existing mechanized iron ore handling facilities of Outer Harbour being agreed to be transferred by the Concessioneing Authority to the Concessionaire.
- (H) The Concessionaire and the Concessioneing Authority agreed that till the creation of Mechanized facility at the WQ1 berth of Inner Harbour, i.e., in Phase – II, the following shall be the arrangement:

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- (i) The Concessionaire shall have exclusivity on Iron Ore handling (including CLO upto -40 mm, fines and pellets) for vessels above 12.5 mtrs draft. In case of vessels upto 12.5 mtrs draft, the respective exporter shall have the option to choose between Outer Harbour and Inner Harbour.
- (ii) The Concessioneing Authority will continue to handle iron ore (including CLO upto -40 mm, fines and pellets) at any of the Inner Harbour Berths including WQ1 berth, with the existing system of handling. The cargo will be handled by the Concessioneing Authority either through deployment of HMC/Electric Wharf Cranes or through ship gear depending upon the requirement.
- (iii) The entire revenue on account of iron ore (including CLO up to -40 mm, fines and pellets) handling at inner harbour, i.e., berth hire, vessel related as well as cargo related charges shall accrue to the Concessioneing Authority.
- (iv) In case of pre-occupation of the berth at Outer Harbour and subsequent vessels are waiting for iron ore (including CLO upto -40 mm, fines and pellets) loading at the Port, the exporter can exercise option either for waiting for Outer Harbour Berth, or for handling at Inner Harbour Berths. In case the exporter desires to handle the cargo at Inner Harbour, the Concessioneing Authority will have the discretion to handle the vessels at any of the berths including WQ1 berth, in the Inner Harbour.
- (v) The Concessionaire shall as a part of one of the Conditions Precedent for Phase I, submit Additional Guarantee equivalent to an amount of Rs.25 (twenty five) Crores towards token of commitment for commencement and execution of phase-II and the same shall be valid until expiry of 46 (forty six) months from the date of execution of this Agreement. It is, however, clarified that the validity period of the Additional Guarantee may be extended by the Concessioneing Authority if the Date of Award of Concession is not attained on the expiry of 120 (one hundred twenty) days from the date of execution of this Agreement. In case of such extension, the total validity period of the Additional Guarantee will be 46 months plus number of days for which the Date of Award of Concession is delayed beyond 120 days from the date of execution of this Agreement. The Concessionaire shall be obliged to furnish fresh Additional Guarantee of the aforesaid total validity period within 7 (seven) days from the date on which the intimation to that effect is given by the Concessioneing Authority to the Concessionaire. Upon furnishing of the aforesaid fresh Additional Guarantee by the Concessionaire, the Concessioneing Authority shall return the original Additional Guarantee of 46 months validity period to the Concessionaire. In case minimum throughput as stated in clause (B)

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above has been achieved but the Concessionaire fails to start construction of Phase II, the Concessioning Authority shall have the right to encash the Additional Guarantee.

- (vi) The Additional Guarantee submitted by the Concessionaire, shall be returned by the Concessioning Authority to the Concessionaire after expiry of its validity period.

The brief facilities of the Project in PHASE – I and PHASE – II are detailed as below:

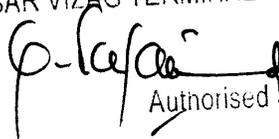
PHASE – I (UPGRADATION OF EXISTING MECHANIZED IRON ORE HANDLING FACILITY AT OUTER HARBOUR TO ACHIEVE A RATED CAPACITY OF 8000 TPH):

1. Strengthening of the ore berth (OB-I & OB.II) to accommodate 2.00,000 DWT Vessels.
2. Dredging at the berth (60 meters from face of the berth) to a depth of 21 meters to cater to super capsized vessels.
3. Strengthening the existing two stockpiles (east & middle) at OHC to cater to the required stacking capacity of the project.
4. Develop the backup area, water supply area, illumination, firefighting, railway and road facilities, subject to requirement.
5. Replacement of existing equipments as listed below, to achieve a rated capacity of 8000 TPH:

The following is the list of major facilities envisaged:

Sl. No.	Description	Qty.	Capacity	Remarks
i.	Ship loader	1No.	8000 TPH	Replacement of existing loader
ii.	Stacker ST-1 & Stacker ST-3	2Nos.	2700 TPH each	Replacement of existing stackers
iii.	Reclaimer RE-2	1No.	4000 TPH	Replacement of existing Reclaimer
iv.	Reclaimer RE-3	1No.	4000 TPH	Replacement of existing Reclaimer
v.	Twin Tippler	1 pair	27 tips per hour	Replacement of existing Wagon tippler
vi.	Third Tippler	1 no.	30 tips per hour	Replacement of existing Wagon tippler
vii.	Apron pan feeder	4 nos.	1500 tph	Replacement of Pan feeders below tipplers

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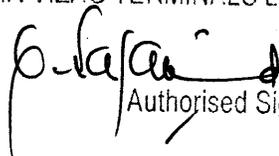
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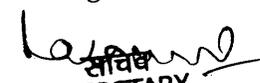


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viii.	Apron pan feeder	2 nos.	4000 tph	Replacement of Pan feeders below Surge bin
ix.	Shipping Conveyor System S1,S2,	1No. each	4000tph	To be modernized and upgraded to handle 4000tph which includes strengthening of drive, belt & structures
x.	Shipping Conveyor System S4, S6, S8, S10 & S12	1No. each	8000 tph	To be modernized and upgraded to handle 8000 tph which includes strengthening of drive, belt & structures
xi.	Conveyors of OHC (R1, R2, R1a, R3, R4, Ra, Rc, Rd, S1 & S2	Lot		To be modernized and upgraded which includes strengthening of drive, belt & technological structures
xii.	Storage bed	2 nos. (Equivalent)	41 x 710 m2	Stock yard consolidation by suitable means viz stone columns etc.
xiii.	Civil & Structural Works	Lot	-	Strengthening of civil & structural component associated with the entire receiving and shipping conveyor system, berth extension, dolphin construction.
xiv.	Surge bin, sampling plant, associated items	1 No.	-	Existing to be upgraded including structural strengthening
xv.	Electrical power distribution	Lot	-	Covers additional facility as well as existing facility
xvi.	Automation & Control	Lot	-	PLC/PC based both for new items and the existing system.
xvii.	Auxiliary Units	Lot		Water supply, Air Pollution Control, Ventilation system


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xviii.	Railway network			Inhaul (load side) & outhaul (empty side) rail line shall be suitably strengthened.
xix.	Pollution control system			Dust suppression system shall be provided for proposed facilities as well as existing of OHC.

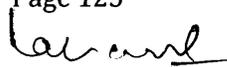
The existing facilities, stock yard area plan (Attachment -1) are shown in Drawing No.MEC/06YT/11/17/02/R1.

Details of the works to be undertaken are listed in the above table.

6. Development of utilities and services such as communication, office accommodation, etc., subject to requirement.
7. Compliance with environmental laws during implementation i.e., construction, operation and maintenance.
8. Strengthening a part of the existing conveyor system, surge bin and procurement of belts, up-gradation of dust suppression equipment.
9. A complement of 7 numbers locos (1350 hp) are in operational condition and will be handed over to the prospective operator on "as is where is basis". The operator shall either replace the locos at the end of economic life or may resort to hiring of locos or have some understanding/agreement with Indian railways.
10. Planning, design, construction, operation and maintenance of all developmental works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant National/ 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.
11. 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.
12. Operation and maintenance thereof.

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13. The scope under item 12 mentioned above shall include checking the adequacy, planning and designing of the required strengthening/modifications/upgradation of existing facilities.
14. Dust suppression system and dust extraction system: the entire stockpiles area and transfer houses of the conveyor gallery are to be provided with suitable dust suppression system as environmental mitigative measures to control the dust that might arise during operations, duly ensuring compliance to the standards as expected by the authorizes concerned.
15. Overhead conveyors along the gallery need to be suitable covered so as to ensure complete dust free in the surrounding areas. Suitable dust suppression system as environmental mitigative measures to control the dust that might arise during operations, duly ensuring compliance to the standards as expected by the authorizes concerned. by the authorizes concerned.
16. Green plantation and perimeter walls: to contain the finer particles in the air due to cargo handling operation and to improve aesthetics in the area, a 10 meter thick green belt is to be provided all around the stacking area which is also an environmental mitigative measures
17. For more details please refer TEFR

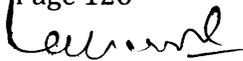
PHASE – II (CREATION OF NEW MECHANIZED FACILITY AT WEST QUAY-1 (WQ-1) BERTH IN INNER HARBOUR

1. The Concessionaire shall commence the work relating to creation of a new mechanized facility at West Quay – 1 berth in the Inner Harbour for iron ore (including CLO upto -40 mm, fines and pellets) and pellets upon satisfaction of Conditions Precedent for Phase II.
2. The berth shall be operated on non-exclusive basis. Whenever the Project Facilities and Services or any part thereof are not fully utilized during the Concession Period, the Concessioneing Authority shall have the right to assign such Project facilities and Services to other users and collect charges from such other users.
3. The existing facility at WQ-1 berth can cater to vessels up to 12.5 mtrs draft. Further strengthening and deepening of the Berth to cater to vessels upto 14.0 mtr. Draft by the Concessionaire at the cost of the Concessionaire, if necessary, will be permitted with approval of the competent authority.
4. In case of non-fulfillment of the condition for creation of new mechanized facility at Inner Harbour during the stipulated period, the Concessioneing Authority shall explore the other avenues for developing the facility at WQ-1 berth in the Inner Harbour.
5. The new facility at West Quay – 1 berth at Inner Harbour shall comprise of:

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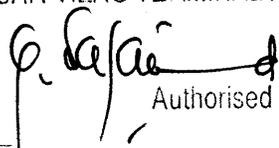
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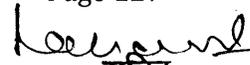
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- (a) Mechanical equipment for unloading iron ore (including CLO upto -40 mm, fines and pellets) from railway wagons, for stacking in the stack yard and for reclaiming the ore. Indicative cargo handling equipment comprises of:
- (i) 1 number Twin Wagon Tippler with side arm charger (for handling full rake) with a capacity of 23 tips/hr
 - (ii) 2 numbers Stacker cum Reclaimer of 3000 TPH capacity
 - (iii) Belt conveyer of 3000 TPH, 2.98 Km long,
 - (iv) Belt conveyer - 1600mm Belt width (including Stacker cum Reclaimer)
 - (v) Belt conveyer --1200mm Belt width
 - (vi) 3 nos. Over Band Magnetic Separators
 - (vii) 3 nos. Belt weighers
 - (viii) Pay Loaders 4 nos.
 - (ix) Drive Houses and Transfer Houses
 - (x) Suitable Railway Tracks
 - (xi) Workshop equipment and electric power and control switch gears
- (b) Installation of one Ship loader of 3000 TPH for loading the cargo into the ships at berth and associated equipment.
- (c) Development of stacking area behind and near the proposed berth as shown in the plan to be made available on license basis for the concession period of 30 years.
- (d) Development of back-up area, water supply facilities, area illumination, fire fighting facilities.
- (e) Development of Rail and Road facilities including development of Land
- (f) Development of utilities and services such as communication, office accommodation etc., required for operation of the berth.
- (g) Compliance with environmental laws during implementation i.e., construction, operation and maintenance.
- (h) Planning, design, construction, operation and maintenance of all developmental works shall comply to the relevant Indian Standards and in the absence of Indian standards, relevant National / International Standards or as may be directed by the Independent Engineer / Concessioning Authority in the absence of such 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.

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- (i) 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.
- (j) Operation and maintenance thereof.
- (k) For more details please refer TEFR

Berth and dredging works to be taken up by the concessionaire

(a) Strengthening of the Ore Berths(OB-1,OB2&WQ-1)

The berth structure shall be handed over to the Concessionaire on as is where is basis by the date of award of Concession. The ore berths (OB1 & OB2 and WQ-1) needs to be strengthened by the Concessionaire duly examining and checking the adequacy based on existing structure, conditions etc., and his own future requirements and based on the detailed investigations and geo-technical investigations / any other investigations as per requirement to ensure design of the structure based on soil conditions of the site, to be done by the Concessionaire after award. Any modifications / developments / consequential-works / rectification / making good the damages etc., as required shall be at the cost, risk and responsibility of the Concessionaire. The indicative cost of strengthening is included in the estimate..

(b) Capital and maintenance dredging works: The Concessionaire is required to undertake the capital dredging of 60m on either side of Ore Berths from the existing level of (-) 18 mtrs to (-) 20.00 mtrs including the extended portion of the berth and maintain the same.

(c) West quay-1- Maintenance of the dredged depth at berth in the area beyond 50m. from the face line of the berth at (-)16.10 m. to cater to vessels with 14 m draft in phases duly synchronizing with the deepening plans of VPT. The maintenance dredging to be undertaken by the Concessionaire as part of the project shall be up to 50 m from the face of the berth.

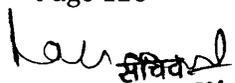
Civil and Structural works: for more details please refer Chapter No. 9 and 11 of TEFR, in addition to the above.

Mechanical Handling System: for more details please Chapter No.10 of TEFR, in addition to the above.

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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.
- Providing any other services to ships except pilotage, towage and mooring.

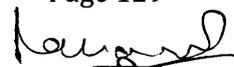
Security Clause:

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

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Annexure

**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. The details are available in the TEFR

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 details are available in the TEFR.

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

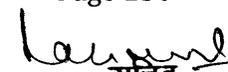
B. 1. Dry Bulk, Break Bulk & Container Terminals

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

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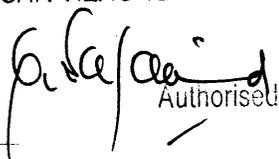
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bulk cargo / , approach roads, railways sidings, operational buildings / offices, maintenance workshop, drainage, water supply, environmental protection works and other amenities. The Concessionaire is required to undertake all tests required as per 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, RDSO of Ministry of Railways and provisions of Shore Protection Manual (CERC) of US Army Corps of Engineers 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.


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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: Part1: 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.

B-2 Bulk Liquid Terminals and Tank Farms

In addition to complying to the requirement of relevant specifications mentioned above, in respect of port terminals meant for handling bulk liquids such as crude, POL, hazardous chemicals, LPG, LNG, etc., the concessionaire shall also comply with the requirements of IMO Standards, MSIHC Rules 1989, IMDG Codes, OISD Standards & Guidelines, Petroleum

Rules and Act, Explosives Act and statutory requirements.

C. Cargo Handling Equipment

C-1 General

The concessionaire in accordance with relevant standards shall provide the type and capacity of equipment required for handling the specified cargo. The equipment shall generally conform to the following standards and code of practices.

C-2 Electric Cranes - Wharf and Gantry Cranes

The crane and its mechanisms shall be designed and constructed in compliance with the latest editions and amendments of the following standards and codes of practice. Standards equivalent or higher in BS, JIS, FEM, DIN, ISO, IEC are also acceptable.

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


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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

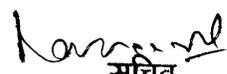
Hoist	T8	L3	M8
Traverse	T8	L3	M8
Travel	T5	L2	M5
Boom hoist	T3	L3	M4

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

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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/ 1991	Mobile Cranes - Determination of Stability ISO 4305 -
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

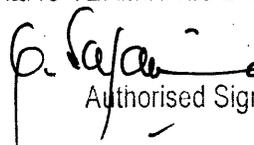
IS 1891(Part I & II)-1978	Rubber Conveyor Belting
IS 1891 – 1988	Amendment to above conveyor
IS 22131 Part I 1980	Steel Cord Conveyor Belting

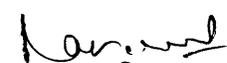
D. Electrical

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
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 3 : 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 Polyethylene insulated PVC sheathed cables Part 1 for working voltages upto and including 1100 V
IS 7098 (Part 2) : 1985	Cross linked Polyethylene 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 Polyethylene 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


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	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 /approved DPR, which need to be supplied to the Concessioneing 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 assets, project facilities in trust for eventual transfer to the Concessioneing 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.

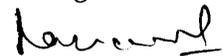
The Concessionaire shall, at all times during the Concession Period, at its own risk, cost, charges and expenses, performance and pay for maintenance repairs, renewals and replacement of various type of assets and equipment in the concessionaire premises and / or the project or any parts thereof, whether 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

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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 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 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

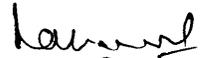
The Concessionaire shall ensure compliance with the safety standards set out under Applicable Law/ international conventions, as relevant, from time to time including those required under the following :

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.

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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.

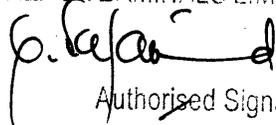
3. Appointment of Safety Consultant

For carrying out safety audit of the Project, the Concessionaire with the approval of the Concessions 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.

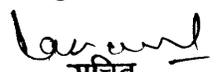
4. Safety measures during Construction period

- 4.1 Not later than 90 (ninety) days from the date of this Agreement, the Concessionaire with the approval of the Concessions 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 Concessions 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.

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- 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 Concessionaire to the Independent Engineer / statutory authorities, 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

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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.

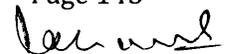
5. Safety measures during Operation Period

- 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 Concessioneing Authority at the conclusion of every quarter and to the Safety Consultant as and when appointed.
- 5.4 The Concessionaire shall submit to the Concessioneing 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 Concessionaire with the approval of the Concessioneing 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.

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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

PART A: OUTER HARBOUR – PHASE I

Project Schedule for completion of construction of Phase I of the Project shall be no later than 24 (twenty four) Months from the date of commencement of the Concession Period i.e. the Date of Award of Concession.

Milestone dates for completion of construction of Phase I of the Project from the date of Award of Concession are as follows:

Milestone date	Activity / level of completion of Phase I of the Project
180 Days from Date of Award of Concession	10% of Construction Works should have been completed
365 Days from Date of Award of Concession	30% of Construction Works should have been completed
730 Days from Date of Award of Concession	100% of Construction Works should have been completed

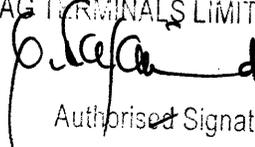
THE detailed CPM chart shall be furnished by the Concessionaire.

PART B: INNER HARBOUR – PHASE II

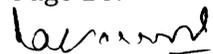
Project schedule for completion of construction Phase II of the Project shall be no later than 24 (twenty four) months from the date on which the Conditions Precedent for Phase II have been satisfied / complied by the Concessionaire.

Conditions Precedent for Phase II which shall be fulfilled/satisfied by the Concessionaire within 180 (one hundred eighty) Days from the date of attaining minimum 12.5 million tonnes of throughput at Outer Harbour or 2 million tonnes of traffic at Inner Harbour, whichever is earlier. It is however, clarified that there is no restriction on the Concessionaire, to execute Phase II co-terminus with Phase I. It is further clarified that in case the Concessionaire intends to execute/commence Phase II co-terminus with Phase I, then the Concessionaire shall inform in writing to the Concessioning Authority of its intention to execute Phase II simultaneously with Phase I. In such an event the Conditions Precedent for Phase II shall be satisfied by the Concessionaire within 180 (one hundred eighty) days from the date on which the Concessionaire informs the Concessioning Authority about its intention to execute Phase II co-terminus with Phase I.

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Milestone dates for completion of construction of Phase II of the Project from the date on which the Concessionaire satisfies / comply with the Conditions Precedent for Phase II are as follows:

Milestone date	Activity / level of completion of Phase II of Project
180 Days from the date of commencement	10% of Construction Works should have been completed
365 Days from the date of commencement	30% of Construction Works should have been completed
730 Days from the date of commencement	100% of Construction Works should have been completed

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APPENDIX 6
DESIGNS AND DRAWINGS

CIVIL:

The Concessionaire shall submit the following:

1. General Layout of the Conveyor system and stack-yard developments.
2. Layout of the facilities planned.
3. Typical soil parameters considered in the design.
4. Layout of material handling facility proposed by the concessionaire.
5. Sectional layout of material handling facility.
6. Detailed designs and drawings for proper conveyor system.
7. Detailed designs and drawings for the development of proposed stockyard.
8. Detailed designs and drawings for the proposed crane track, ship-loader, stacker.
9. Any other Project relevant drawings intended by the Concessions Authority

DESIGN AND DRAWINGS

The Concessions Authority expects that the concessionaire submit the following drawings and designs

A. Drawings

1. Survey layout with the facilities planned
2. Layout of works
3. Drawings of site specific soil profile and for soil improvement
4. Drawings for temporary works
5. Any other drawing required for proper execution.

B. Designs

1. Designs of temporary works
2. Detailed design of operational buildings
3. Any other designs required for proper execution.

Mechanical:

1. CALCULATIONS AND MANUALS:

The bearing life and all other relevant calculations relating to the slew assemblies shall be supplied before testing and commissioning of the machines. Other data such as bearing manufacture number, serial number etc. must be submitted to the Independent Engineer for

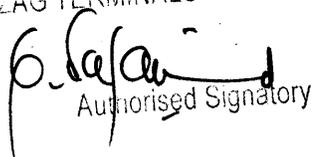
future reference. Bolt connection calculations for operating and maximum no operating conditions to be submitted. The manufacturer's quality control activities shall include the testing of all roller and/or ball races of the bearing for cracks or imperfections using magnetic particle testing in accordance with AS 1171 or equivalent Indian Standard. The test certificates shall be submitted along with the supply of bearing. In addition the following information are required to be submitted.

- Installation drawings.
- Drawing(s) of bearing seating rings if applicable.
- Illustrated description of installation procedure.
- Number, position and size of jacks required.
- Flatness tolerances of bearing seat prior to installation of bearing.
- Under casting (grouting) procedure and materials if applicable.
- Circularity and flatness tolerance of installed (bolted down) bearing.
- Permissible elastic deformations (in operation).
- Permissible bearing wear including methods and intervals of measurement.
- Grade and tightening methods or torques of bearing holding bolts including tolerances and recommended re-torquing intervals.
- Position of bearing "soft spots" and their required placement relative to stationary and rotating parts of the machine.
- Proposed backlash and alignment tolerances for gearing if applicable.
- Grease types and recommended greasing intervals for the labyrinth seals, bearing and gears as applicable.

2. DRAWINGS & OTHER INFORMATION:

- 2.1. All drawings shall be prepared using the latest version of AutoCAD.
- 2.2. AS BUILT DRAWINGS {in CD ROM (in AutoCAD format) and Reproducible Tracing Format (RTF)} of the components, subassemblies, structures, electricals etc. including, but not limited to the following, to be submitted prior to handing over:
 - i. General Arrangement Drawings, with Principal Details and Leading Dimensions, etc.,
 - ii. Drawings of bought out items.
 - iii. Single line electrical schematic drawings, including Cable Routes, Lighting Equipment details, Electrical Panel Diagram and Earthing Scheme.

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- iv. Outline drawings with principal details and leading dimensions of major electrical equipment.
- v. Diagram showing wheel loads.
- vi. Schematic electronic and programmable control details.
- vii. Schematic arrangement of Luffing Mechanism.
- viii. Schematic Hydraulic Circuits, wherever applicable.
- ix. General Arrangements of Machinery House, Electrical Control Room, etc.
- x. General Arrangement of the Operator's Cabin, clearly indicating the location of various controls and indicators.
- xi. Detailed Drawings of Luffing Arrangements.
- xii. Detailed Structural drawings.
- xiii. Detailed Drawings of Bogie arrangement.
- xiv. Detailed drawings of Machinery Room and Operator's Cabin including Power Equipment arrangement.

2.3. Technical details of all bought out items, including, but not limited to the followings, are to be submitted along with Reclaimer, before handing over :

- a) Parts Catalogues.
- b) Name and Address of the Manufacturer(s).
- c) Name and Address of the Indian Agent(s) of the Manufacturer(s), wherever applicable.
- d) Bearing Number(s) & Oil Seal Size(s) for all Gear Reducers and Bearing Number(s) for all Motors

2.4. "AS CONSTRUCTED" Performance Specification, including the followings, are to be submitted along with each, before handing over:

- a) Wheel loads.
- b) Operating Speeds.
- c) Commissioning Test Results.
- d) Statutory Test Certificates.
- e) Others as per Scope of Work.

2.5. Major Technical Details and Make / Brand of the following items, are to be submitted alongwith each Equipment, before handing over:

- a) Motors.
- b) Switch Gears.
- c) Power Electronics, Control System and PLCs.
- d) Hydraulic Power Packs.

2.6. OPERATION & MAINTENANCE MANUAL:

2.6.1. The contractor shall have to provide also Operating and Maintenance (O&M) Manual, which will cover the operation, lubrication, maintenance and inspection of the Equipments, including routine and major maintenance of mechanical and electrical components. Routine and major inspection of the structure shall be covered by the structural maintenance manual. Detailed electrical drawing shall have to be included with each O&M Manual. The O&M Manual shall be hard bound and indexed for easy reading. The Contractor shall furnish 6 sets O&M Manual along with supply of each Equipment.

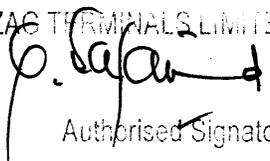
2.6.2. Following manuals to be provided with Equipments before handing over:

- a) All Technical and Operating Instruction Manuals for the Equipments and components.
- b) Manuals for Setting up and Test Procedures.
- c) Manuals for Operational Duties and restrictions.
- d) Manuals for Maintenance for enabling the technicians to undertake all necessary repairs, disassembly, re-assembly, fault finding procedures and any other maintenance or repair procedures, required to be undertaken.

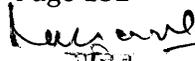
2.7. DESIGN APPRAISAL AND APPROVAL OF QUALITY ASSUARANCE PLAN:

The design of the equipments are to be appraised to the Independent Engineer, to be appointed. The successful BOT Operator will submit the Quality Assurance Plan (based on Technical Specification & Scope of Work) to the "Independent Engineer" for approval, duly recommended by the 3rd Party Inspection Agency. After approval of the Quality Assurance Plan (QAP) by the "Engineer", inspection will be carried out by the 3rd Party Inspection Agency, based on the approved QAP, Technical Parameters & Scope of Work.

For ESSAR VIZAG TERMINALS LIMITED


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Note: 1) All dimensional drawings 6 sets should be supplied at the time of handing over the machine

S.No.	Description	Quantity
1.	Dimensional drawings	6 sets
2.	Spare parts catalogue	6 sets
3.	Operation manual	6 sets
4.	Maintenance manual	6 sets
5.	Electrical circuit diagram	6 sets

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.

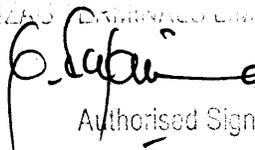
Steel:

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.

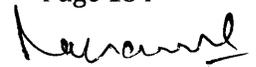
Expansion joints, anchorages, fenders, bollards, ladders shall meet the relevant provisions of the Indian Standard Codes, recommendations of the system providers, manufacturers testing and certification and the designers design assumptions.

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.

For EESAR VIZAG DEVELOPMENTS LIMITED


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SECRETARY

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वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

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 of both Phase I and Phase II and submit fortnightly progress reports to both the Concessionaire and the Concessions Authority;
- (iii) conducting Tests on completion of construction and issuing Completion / Provisional Certificate, in respect of both Phase I and Phase II of the Project;
- (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.

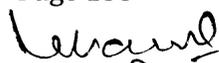
2. Review of Designs and Drawings

- (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 the 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 Concessions Authority, if any while furnishing the comments.

For ESSAR VIZAG TERMINALS LIMITED

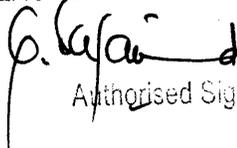

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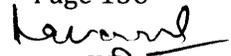

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- (iii) The Independent Engineer shall review the monthly progress reports as regards the Construction Works of both Phase I and Phase II of the Project.
- (iv) The Independent Engineer shall inspect the Construction Works of both Phase I and Phase II 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 of both Phase I and Phase II 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 of both Phase I and Phase II.
- (v) The Independent Engineer may inspect the Construction Works in respect of Phase I and Phase II more than once in a month if any lapses, defects or deficiencies require such inspections.
- (vi) For determining that the Construction Works of Phase I and Phase II 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 of Phase I and/or Phase II, as the case may be, 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 of Phase I and/or Phase II, as the case may be, 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

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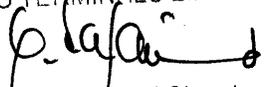

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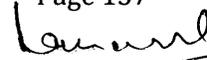
Independent Engineer shall determine that completion of the Project or any part thereof is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) Days the steps proposed to be taken to expedite progress, and the period within which 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 Concessioneing 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 of Phase I and/or Phase II 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 any part of the Construction Works of Phase I and/or Phase II 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 of Phase I and/or Phase II 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.

For ESSAR VIZAG TERMINALS LIMITED


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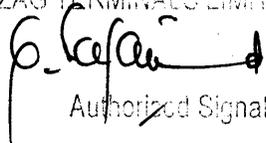
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Annexure

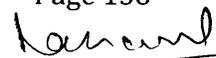
Tests

- 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.

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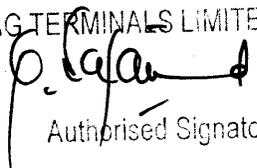


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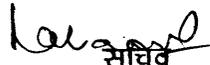
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- (iii) **Structural test:** All the equipment and machinery and structures shall be subjected to load test as the case may be for ascertaining safe working loads.
- (iv) **Environmental Audit:** The Independent Engineer shall carry out a check to 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

For ESSAR VIZAG TERMINALS LIMITED


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APPENDIX 8

**PERMITS AND CLEARANCES PROCURED BY THE CONCESSIONAIRE/
CONCESSIONING AUTHORITY**

Procurement of MoEF clearance for the Project will be the responsibility of the Concessioneing 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 of both Phase I and Phase II.

- 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 Concessioneing Authority:

Activity	Authority
Port Limit Notification	Ministry of Shipping
Environmental Clearance	Prior Environmental clearance from MOEF, New Delhi

APPENDIX 9
PERFORMANCE GUARANTEE
(PROFORMA OF BANK GUARANTEE)

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.

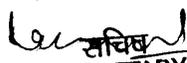
WHEREAS:

- A. The Board, vide its Request for Proposal dated 12.02.2013 (**"the RFP"**) invited duly short listed bidders to implement a project envisaging planning, engineering, designing, finance, construction, development, operation & maintenance of **Upgradation of Existing Facility and Creation of New Facility at Visakhapatnam Port Trust for iron ore handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis 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 Vadinar Oil Terminal Limited, Mumbai (**"the Applicant"**) and issued the Letter of Intent No IM&EE/MECH/OHC-WQ1/3042, dated 31.05.2013 (**"LOI"**) to the 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 has promoted and incorporated a special purpose company M/s Essar Vizag Terminals Limited (**"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

For ESSAR VIZAG TERMINALS LIMITED


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from a Scheduled Bank for a sum of Rs. 422.71 millions (Four hundred and two decimal seven one millions 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. Essar Vizag Terminals Limited, ("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 422.71 millions (Four hundred and two decimal seven one millions 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 Concessioning 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 expiry of 6 (six) months from the Date of Commercial Operations of Phase I, 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 422.71 millions (Four hundred and two decimal seven one millions 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 Concessioning 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 Concessioning Authority's part to enforce, assert or to exercise any right, power or remedy conferred on the Concessioning Authority in this Guarantee;
 - (f) shall not be affected by any act, omission, matter or thing which, but for this clause


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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 Concessing 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.

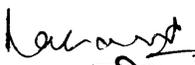
IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN

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

For ESSAR VIZAG TERMINALS LIMITED


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**APPENDIX 10
CERTIFICATES**

(A) COMPLETION CERTIFICATE

1. I, [●] (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Agreement dated [●], for the planning, engineering, designing, finance, construction, development, operation & maintenance of **Upgradation of Existing Facility and Creation of New Facility for iron ore handling at Visakhapatnam Port on DBFOT basis** Project, through [(Name of Concessionaire)], hereby certify that the Tests specified in Article 6.7 and Appendix 7 of the Agreement have been successfully undertaken to determine compliance of [Phase I or Phase II] the Project with the provisions of the Agreement, and I am satisfied that [Phase I or Phase II] 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 [Phase I or Phase II] of the Project have been completed, and that [Phase I or Phase II] of 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)

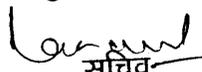
(Address)

(B) PROVISIONAL CERTIFICATE

1. I, [[•] (Name of the Independent Engineer)], acting as Independent Engineer, under and in accordance with the Agreement dated [•], for planning, engineering, designing, finance, construction, development, operation & maintenance of **Upgradation of Existing Facility and Creation of New Facility at Visakhapatnam Port Trust for iron ore handling on DBFOT basis** through [• (Name of Concessionaire)], hereby certify that the Tests specified in Article 6.7 and Appendix 7 of the Agreement have been undertaken to determine compliance of [Phase I or Phase II] of the Project with the provisions of the Agreement.
2. Construction Works in respect of [Phase I or Phase II] 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 Concessions 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 [Phase I or Phase II] of the Project, pending completion thereof.
3. In view of the foregoing, I am satisfied that [Phase I or Phase II] of the Project can be safely and reliably placed in commercial service of the users thereof, and in terms of the Agreement, [Phase I or Phase II] of 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:	SIGNED, SEALED AND DELIVERED For and on behalf of INDEPENDENT ENGINEER by:
(Signature)	(Signature)
(Name and Designation)	(Name and Designation)
(Address)	(Address)

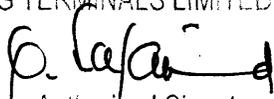

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APPENDIX 11
PERSONNEL AND LABOUR REQUIREMENTS

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

For ESSAR VIZAG TERMINALS LIMITED


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APPENDIX 12

TARIFF

A. For the 1st 2 years from the date of Award of Concession

Wharfage and handling charges as per Sl.No.22 and 23 of Table 4.1

Section 4 of existing scale of rates:

Iron Ore Mechanical Rs.95/- per Tonne

Iron Ore Pellets Mechanical Rs.97/- per Tonne

This is a composite rate for wharfage, handling, tipping and staking

B. After commissioning of the Phase I facility

Tariff caps for mechanized handling of iron ore at VPT have been fixed in November 2010 vide tariff Order No.TAMP/32/2010-VPT dated 29.11.2010 (Copy enclosed. Appendix -1). As per clause 2.2 of the guidelines for upfront tariff setting. "once the tariff caps are set for handling different commodities or providing various services for a port they would apply to all terminals that are bid out subsequently in the same port during the next five years for handling identical commodity or for providing similar services". As such, the rate notified by TAMP is valid till 2015.

The rates approved by TAMP vide order dated 29.11.2010 are as under:

- a. Cargo handling charges: Rs.110.67 per metric tonne
- b. Storage charges – in Rs. per tonne per day or part thereof:

Rate for 1 st week for the balance cargo remaining after the free period	Rate for second week for the balance cargo	Rate for third week onwards for the balance cargo
0.64	1.28	2.56

c. Miscellaneous charges

Charges for all miscellaneous services such as Sweeping, dust suppression and environment etc. - Rs.1.13 per tonne or part thereof

The escalation factor to be applied for the above notified tariff to be effective from 1st April 2012 to 31st March 2013 is 12.18% (TAMP/12/2009-Misc. dated 18.4.2012)(Copy enclosed. Appendix-2) and thereafter an escalation factor of 5.89% is adopted to arrive at rate applicable from 1st April 2013. (Pending receipt of values of indexation from TAMP which is expected in March, 2013. After receipt of information, the same will be refined.)

Accordingly the revised rates will be as follows:

- a. Cargo handling charges: Rs.131.46
b. Storage charges – in Rs. per tonne per day or part thereof

Rate for 1 st week for the balance cargo remaining after the free period	Rate for second week for the balance cargo	Rate for third week onwards for the balance cargo
0.76	1.52	3.04

c. Miscellaneous charges:

Charges for all miscellaneous services such as Sweeping, dust suppression and environment etc. - Rs.1.27 per tonne or part thereof

For ESSAR VIZAG TERMINALS LIMITED


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SECRETARY

वा. &
वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

APPENDIX - I TO
ANNEXURE - 21.1

ANNEX - II

VISAKHAPATNAM PORT TRUST

UPFRONT TARIFF SCHEDULE FOR MECHANISED HANDLING OF IRON ORE

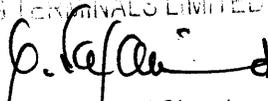
1.1. DEFINITIONS

In this Scale of Rates unless the context otherwise requires, the following definitions shall apply:

- (i). "Day" shall mean the period starting from 8.00 A.M. of a day and ending at 6.00 A.M. on the next day.

1.2. GENERAL TERMS & CONDITIONS

- (i). Interest on delayed payments / refunds.
- (a). The user shall pay penal interest on delayed payments of under this Scale of Rates. Likewise, the terminal operator shall pay penal interest on delayed refunds.
- (b). The rate of penal interest will be 2% above the prime lending rate of the State Bank of India.
- (c). The delay on refunds will be counted only 20 days from the day of completion of services or on production of all the documents required from the users, whichever is later.
- (d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the terminal operator. This provision shall, however, not apply to the cases where payment is to be made before availing the services where payment of charges in advance is prescribed as a condition in the scale of rates.
- (ii). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto and inclusive 0.5 shall be taken as 0.5 unit and fractions of above 0.5 shall be treated as one unit, except where otherwise specified.
- (iii). All charges worked out shall be rounded off to the next higher rupee on the grand total of the bill.
- (iv). (a). The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The terminal operator may, if they so desire, charge lower rates and / or allow higher rebates and discounts.
- (b). The terminal operator may also, if they so desire rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels.
- (c). The terminal operator should notify the public such lower rates and / or rationalisation of the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (v). Users will not be required to pay charges for delays beyond reasonable level attributable to terminal operator.


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2. CARGO HANDLING CHARGES:

Sl. No. (a)	Commodity	Unit	Rate in Rupees
	Iron Ore	Per Metric tonne	110.67

Note:

The handling charges prescribed above is a composite charges for unloading of cargo from wagon through unloading facilities at dumper house, the transfer the same upto the point of storage, storage at the stack yard upto a free period of 15 days, reclaiming from stack yard, loading onto the ship, wharfage and all other miscellaneous services not specifically prescribed in the scale of rates.

3. STORAGE CHARGES:

The Storage charges for the cargo stored in the stack yard beyond the free period of 15 days shall be as below:

Sl. No.	Commodity	(Rate in Rs. per tonne per day or part thereof)		
		Rate for first week for the balance cargo remaining after the free period	Rate for second week for the balance cargo	Rate for third week onwards for the balance cargo
1.	Iron ore	0.64	1.28	2.56

Notes:

- 15 free days shall be allowed. Free period for export cargo shall commence from the actual date of the receipt of goods in the Port premises.
- For the purpose of calculation of free period, Custom notified holidays and Terminal's non working days shall be excluded.
- Storage charges shall be payable for all days including Terminal's non-working days and Customs notified holidays for stay of cargo beyond the prescribed free days.
- Storage charges on cargo shall not accrue for the period when the terminal operator is not in a position to deliver / ship the cargo when requested by the user due to reasons attributable to the Terminal operator.

4. MISCELLANEOUS CHARGES:

The following Miscellaneous charges are applicable for iron ore handled:

Sl. No.	Particulars	Rate per tonne or part thereof (in Rs.)
1)	Charges for all miscellaneous services such as sweeping, dust suppression and environment etc.	1.13

5. GENERAL NOTE TO SCHEDULE (2) TO (5) ABOVE:

The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2010 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31st March of the following year.

Appendix Q to Annexure 2.1
Appendix

2012 V 017/001
Chairman
* 19 APR 2012
Visakhapatnam Port

सहायतन प्रशुल्क प्राधिकरण
TARIFF AUTHORITY FOR MAJOR PORTS

4th floor, Bhandar Bawan, Muzawat Pakhadi Road, Mazgaon, Mumbai - 400 010.
2375 2000, 2375 2008 Fax : 022-2375 7879, E-mail : tariff@tariffauthority.gov.in, Web : http://www.tariffauthority.gov.in

No.TAMP/12/2005-Mlec.
18 April 2012

To
The Chairman,
A. Major Port Trusts

Subject: Indication of tariff caps fixed in the upfront tariff capes for PPP Projects of the major port trusts with reference to the variation in Wholesale Price Index (WPI).

BOARD OF TRUSTEES FOR VISAKHAPATNAM PORT TRUST

As per Clause 2.5 of the Guidelines for upfront tariff setting for PPP Projects at Major Port Trusts, 2008 the tariff caps fixed by this Authority for handling various commodities or providing various services by private operators will have to be indexed to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. For this purpose, WPI for all commodities announced by the Government of India will be considered.

2. The WPI occurring between the relevant dates was ascertained from the Ministry of Commerce and Industry, Government of India. 60% of the variation in WPI occurring between 1 January 2008 and 1 January 2012, 1 January 2008 and 1 January 2012, 1 January 2010 and 1 January 2012, 1 January 2011 and 1 January 2012 works out to 23.11%, 19.71%, 12.16% and 5.89% respectively.

The base year for the upfront tariff already set and the corresponding annual escalation with effect from 1 April 2012 are given below:

Tariff with base WPI as on	Escalation factor to be applied
1 January 2011	5.89%
1 January 2010	12.16%
1 January 2009	19.71%
1 January 2008	23.11%

The adjusted upfront tariff will be in force for the period 1 April 2012 to 31 March 2015.

Yours faithfully,
L. Ragotham
(L. Ragotham)
Director

19/4/12
2015

SE III
A. Chaitanya
19/4/12

Received 6/19/2012 11:00 AM
19/4/12

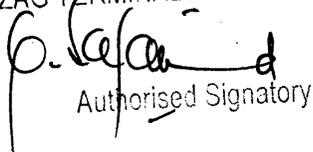
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APPENDIX 13

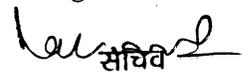
RATES APPLICABLE IN RESPECT OF LAND, UTILITIES AND SERVICES

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

For ESSAR VIZAG TERMINALS LIMITED


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APPENDIX 14

MINIMUM GUARANTEED CARGO

Minimum Guaranteed Cargo for Phase I:

Period *	Outer Harbour
1 st to 3 rd year	12.5 MMT (10MMT+ 40% of 6.5MMT)
4 th year & 5 th year	12.5 MMT (10MMT + 40% of 6.2MMT)
6 th year to 15 th year	13.7 MMT (10MMT + 60% of 6.2 MMT)
Thereafter	15.0 MMT (10 MMT + 80% of cap. of 6.2MMT)

- * Note:
- (a) The base value of traffic is reckoned.
 - (b) The Minimum Guarantee Cargo for Phase-I (as stated in the table above) will be applicable from the Date of Commercial Operations of Phase I.

Minimum Guaranteed Cargo for Phase II:

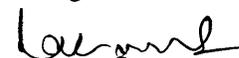
Period	1 st & 2 nd year	3 rd & 12 th year	13 th year onwards
Inner Harbour Phase II	2.70MMT (40% of 6.8MMT)	4.00MMT (60% of 6.8MMT)	5.45 MMT

The Minimum Guarantee Cargo for Phase II (as stated in the table above) will be applicable from the Date of Commercial Operations of Phase II

For ESSAR VIZAG TERMINALS LIMITED


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NAPPENDIX 15
PERFORMANCE STANDARDS

Performance Standards

1. Gross Berth Output

This parameter deals with the productivity of the terminal (Gross Berth output) for different types of cargo. In case of dry bulk cargo, the extent of Mechanization 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.

Indicative norms for Gross Berth Output for iron ore and pellets for Outer Harbour and Inner Harbour are as follows:

OUTER HARBOUR	Indicative Norm
Panamax Vessels	55,000 TPD
100,000 TO 150,000	65,000 TPD
> 150,000 DWT	80,000 TPD
INNER HARBOUR	
UPTO 45,000 DWT	25,200 TPD
45,000 TO 65,000 DWT	43,200 TPD

2. Transit Storage Dwell Time

Bulk Cargo

The Transit storage Dwell Time for iron ore and pellets shall be calculated as half of average parcel size of above cargo vessels in a month divided by average receipt of cargo to the port per day as per the following methodology:

Average receipt of Cargo per day (A) = OB + Received -CB/No. of days

OB = Opening Balance, CB = Closing Balance.

Average Parcel Sizes (B) = P1 + P2 + + Pn/ n(no. of parcels)

P1,P2 Pn are parcel size of each vessel in a month

Transit Storage Time for Bulk Cargo = 0.5 (B/A).

Export IRON ORE AND PELLETS

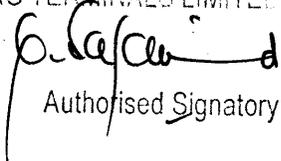
Free period 25 days upto commencement of ship loading operation

3. The project envisages up gradation of existing facility, which was originally designed to handle iron ore at a rated capacity of 8000 Tonnes Per Hour. The various capacity parameters show are as per the existing equipment capacities only, ultimately to load a vessel at outer harbor at 8000 Tonnes per hour. The rated capacity of ship loader is 8000 TPH. Two reclaimers of 4000 TPH are envisaged to work to feed the conveyor system to achieve the Ship loader capacity

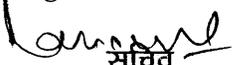
4. Performance Evaluation and calculation of liquidated damages:
Performance evaluation shall be made on a quarterly review of the reports furnished by the Concessionaire and / or the records of the Concessionaire and/or by an enquiry by the Concessions Authority. The Concessionaire shall be liable to 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)%.

For ESSAR VIZAG TERMINALS LIMITED


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विशाखपट्टणम/VISAKHAPATNAM

APPENDIX 16
ESCROW AGREEMENT

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

AMONGST

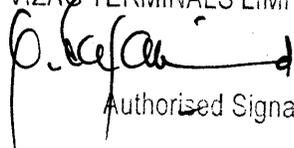
1. [● LIMITED], a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at [●] (hereinafter referred to as the “Concessionaire” which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
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, Andhra Pradesh, India, 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:

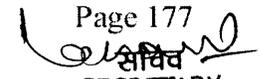
- (A) The Concessioning Authority has entered into a Concession Agreement dated [●] with the Concessionaire (the “Concession Agreement”) for undertaking the Project (as defined in the Concession Agreement) on design, build, finance, operate and transfer (DBFOT) basis. The Lenders have agreed to finance [Phase I or Phase II]* of 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 in respect of [Phase I or Phase II] of the Project, *inter alia*, on the terms and conditions stated therein.

* Delete whichever is not applicable.

For ESSAR VIZAG TERMINALS LIMITED


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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 in respect of [Phase I or Phase II] of the Project 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.

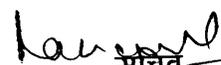
1.2 Interpretation

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.


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वि.पो.द्र. मंडल का प्रतिनिधि
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विशाखपट्टणम/VISAKHAPATNAM

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

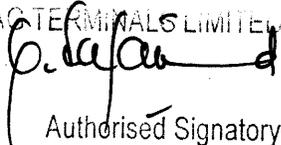
2.1 Escrow Bank to act as trustee

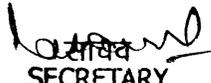
2.1.1 The Concessionaire hereby settles in trust with the Escrow Bank a sum of Rs. 100 (Rupees Hundred Only) and appoints the Escrow Bank to act as trustee for the Concessions Authority, the Lenders, the Lenders' Representative and the Concessionaire in connection herewith and authorises the Escrow Bank 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.

For ESSAR VIZAG TERMINALS LIMITED

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ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

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 OR# date of commencement of Construction Phase of Phase II of the Project], the Concessionaire shall open and establish the Escrow Account in respect of [Phase I or Phase II] of the Project with the [(name of Branch)] Branch of the Escrow Bank (“Escrow Account”). 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 Concessions 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

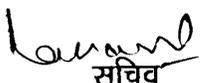
The rights of the Concessions Authority, the Lenders (through the Lenders’ Representative) and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Concessions Authority, the Lenders’ and the Concessionaire shall have no other rights against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

Delete whichever is not applicable.

For ESSAR VIZAG TERMINALS LIMITED

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विशाखपट्टणम/VISAKHAPATNAM

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 [Phase I or Phase II] of 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 [Phase I or Phase II] of the Project/Project Facilities and Services accruing to the Concessionaire including termination payments; and
- (e) all proceeds received pursuant to any insurance claims.

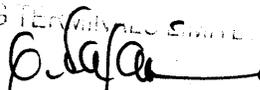
For avoidance of doubt, all amounts received by the Concessionaire in respect of [Phase I or Phase II] of the Project/Project Facilities and Services excepting any amounts in respect of cesses and duties collected by it from the users on behalf of the Concessioning Authority or such other authority in 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;

For ESTAR VIZAG TERMINALS STATE

Authorized Signatory

- (b) towards License Fee;
- (c) all construction / implementation expenses relating to [Phase I or Phase II] of 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 [Phase I or Phase II] 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 Concessioneing Authority and amounts payable towards transfer of [Phase I or Phase II] 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


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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 Concessions Authority and the Escrow Agent has received a confirmation of final settlement by the Lenders and/or Concessions 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 [Phase I or Phase II] 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 Concessions Authority that the rights of the Concessionaire are suspended in accordance with the Concessions Agreement or a Termination Notice is issued, the Escrow Bank shall until such notice is withdrawn, act only on the instructions of the Concessions Authority.

5. OBLIGATIONS OF THE ESCROW BANK

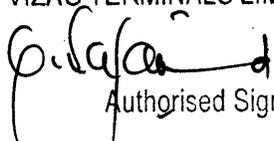
5.1 Segregation of funds

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.

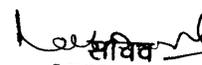
5.2 Notification of balances

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.

For ESSAR VIZAG TERMINALS LIMITED


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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.

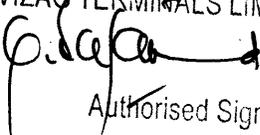
5.5 Regulatory approvals

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

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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.

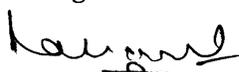
7.2 Substitution of Escrow Bank

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


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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.

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


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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

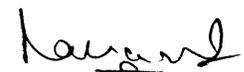
The Concessioning Authority unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement 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 Concessioning Authority with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may

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- 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:

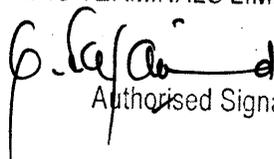
- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (b) shall not affect the validity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

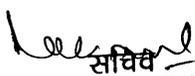
10.6 No third party beneficiaries

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

For ESSAR VIZAG TERMINALS LIMITED


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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 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:

For ESSAR VIZAG TERMINALS LIMITED


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The Concessing Authority:

CHAIRMAN
VISAKHAPATNAM PORT
VISAKHAPATNAM – 530 035
ANDHRA PRADESH, INDIA
Fax No: +91-891-2565023
Email: info@vizagport.com

The Concessionaire:

The CHIEF EXECUTIVE OFFICER

_____Ltd

Fax No. _____

Email: _____

The Lenders/Lenders representative:

_____Ltd

Fax No. _____

Email: _____

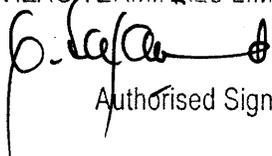
The Escrow Bank:

_____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


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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)

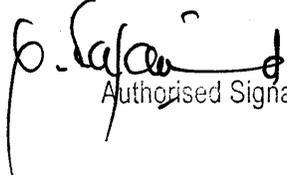
(Fax No.)

SIGNED, SEALED AND DELIVERED

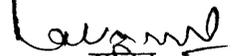
For and on behalf of LENDERS by the Lenders' Representative:

(Signature)

For ESSAR VIZAG TERMINALS LIMITED


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ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

(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

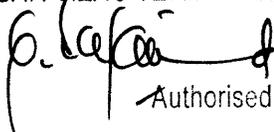
For and on behalf of Concessioneing Authority by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)

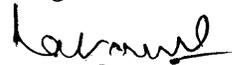
In the presence of:

- 1.
- 2.

For ESSAR VIZAG TERMINALS LIMITED


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APPENDIX 17

PRE-CONTRACT INTEGRITY PACT

General

1. Whereas the Board of Trustees for Visakhapatnam Port Trust, a body corporate constituted under MPT Act 1963, (hereinafter referred to as the Concessions Authority and the first party), represented by its Secretary and Attorney of the Board, proposes to award Concession to M/s Essar Vizag Terminals Limited, represented by, Shri Ch.Satyanand, Chief Executive Officer (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignees), hereinafter referred to as the Concessionaire and the second party, is willing to offer services.
2. Whereas the Concessionaire is a Special Purpose Vehicle constituted in accordance with the relevant law in the matter and the Concessions Authority is a Major Port Trust under Ministry of Shipping, the Government of India.

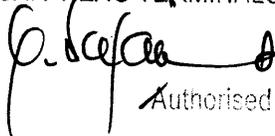
Objectives:

3. Now, therefore, the Concessions 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 Concessions 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 Concessions Authority will commit to prevent corruption, in any form, by their officials by following transparent procedures.

Commitments of the Concessions Authority

4. The Concessions Authority Commits itself to the following:-
 - 4.1 The Concessions Authority undertakes that no official of the Concessions 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

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- 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:-
- 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

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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 Concessing 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 Concessing 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 Concessing 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 Concessing 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.

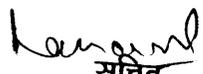
7. Previous Transgression

- 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

For ESSAR VIZAG TERMINALS LIMITED


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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 amount⁵ as specified in the RFP as Earnest Money / Security Deposit, with the Concessions Authority through any of the following instruments.

(i) The concessionaire 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 concessionaire from time to time. The Bank Guarantee that is required to be submitted by the concessionaire 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.

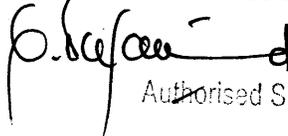
(ii) Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Authority and payable at Visakhapatnam (the "Demand Draft"). The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

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

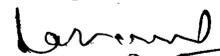
8.2 In the case of successful Concessionaire a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the Concessions Authority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

⁵ The concessionaire shall deposit a Bid Security equivalent to [about 1% (one per cent)] of the Estimated Project Cost, i.e Rs. 8.45 Crores (Rupees Eight Crores and Forty Five Lakhs only) in accordance with the provisions of this RFP. The concessionaire 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.

For ESSAR VIZAG TERMINALS LIMITED


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- 8.3 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.
- 8.4 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.

For ESSAR VIZAG TERMINALS LIMITED


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- (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 Concessions 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 13th December, 2013.

CONCESSIONING AUTHORITY

CONCESSIONAIRE

CHAIRMAN

VISAKHAPATNAM PORT

VISAKHAPATNAM

Fax No: _____

Email: _____

Witness

Witness

1. _____

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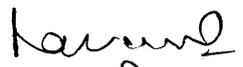
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For ESSAR VIZAG TERMINALS LIMITED


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APPENDIX 18
ADDITIONAL GUARANTEE
(PROFORMA OF ADDITIONAL GUARANTEE)

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 Concessing 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 12.02.2013 (**“the RFP”**) invited duly short listed bidders to implement a project envisaging planning, engineering, designing, finance, construction, development, operation & maintenance of **Upgradation of Existing Facility and Creation of New Facility at Visakhapatnam Port Trust for iron ore handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis 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 Vadinar Oil Terminal Limited, Mumbai. (**“the Applicant”**) and issued the Letter of Intent No IM&EE/MECH/OHC-WQ1/3042, dated 31.05.2013 (**“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 has promoted and incorporated a special purpose company M/s Essar Vizag Terminals Limited, (**“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.

For ESSAR VIZAG TERMINALS LIMITED


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- D. In terms of the Concession Agreement, the Concessionaire is required to furnish to the Board, an Additional Guarantee being an unconditional and irrevocable bank guarantee from a Scheduled Bank for a sum of Rs.25.00 Crores (Rupees Twenty Five Crores only) as security for undertaking commencement and execution of Phase-II of the Project.
- E. At the request of the Concessionaire, and for valid consideration, the Guarantor has agreed to provide guarantee, being these presents guaranteeing the obligation of the Concessionaire to commence and execute Phase II of the Project in accordance with and as per the terms of the Concession Agreement.

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. Essar Vizag Terminals Limited ("the Concessionaire") of all its obligations in relation to commencement of Phase II of the Project under and as per the terms of the Concession Agreement.
3. The Guarantor shall, without demur or protest, pay to the Board sum not exceeding in aggregate Rs 25,00,00,000/- (Rupees Twenty Five Crores only) within five (5) calendar Days of receipt of a written demand therefor from the Board stating that the Concessionaire has failed to start and/or execute Phase II of the Project as per the terms of the Agreement. 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 Concessioning 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

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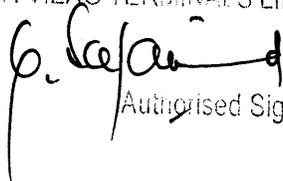

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postponement/non exercise/ delayed exercise of any of its rights by the Board or any indulgence shown by the Board to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, 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 expiry of 46 (forty six) months from the date of execution of the Concession Agreement, 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. 25,00,00,000/- (Rupees Twenty Five Crores 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

For ESSAR VIZAG TERMINALS LIMITED


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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 Concessing 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.

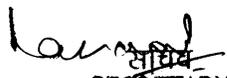
IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN

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

For ESSAR VIZAG TERMINALS LIMITED


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ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

ANNEXURE - I

S.No.	Subject/ Contents of the Clause	Clause No. & Page No.	Clarifications Sought/ Required	Clarifications given
1	Traffic data	NA	Please share month-wise data for coastal & export for FY13. Also break-up of outer harbour and inner harbour.	Data as available is being provided
2	Data & reports	NA	Please share Mecon & RITES report with detailed drawings	Data as available is being provided
3	Handling of vessels	NA	Please confirm that with suitable arrangements, there is no restriction on handling of vessels at outer harbour irrespective of size and type	As mentioned in APPENDIX 4 (Project requirements) of DCA.
4	Upfront fee	NA	Please confirm that upfront fee is payable on award of concession	Yes, payable on the date of award of Concession
5	Replacement of equipment	NA	Please confirm that Concessionaire can refurbish the existing equipment wherever deemed appropriate as long as system achieves rated capacity of 8000 TPH. Please confirm Repair/ Up gradation/ Refurbishment of existing equipment constitutes replacement.	Strictly as per the Scope of work. i.e. Phase - I & Phase -II and there is no such provision of refurbishment of the equipment in the TAMP guidelines.
6	Electricity, water supply, & Telecom and statutory approvals for same	NA	Rs.11.5 crore is towards these items (Electricity, water supply & Telecom) in upfront fee. Please confirm that same shall be available to Concessionaire right from award of Concession till end of Concession Period - with continuation of all existing arrangements. Only changes, if desired by Concessionaire, needs to be done by Concessionaire.	The upfront fee is for handing over the existing facilities as per the bidding documents. The utilities and services shall be as per the provisions of Clause 7.2 of Draft Concession Agreement. The applicable statutory approvals shall be the responsibility of the concessionaire as per the provisions of the Concession Agreement.

For ESSAR VIZAG TERMINALS LIMITED


G. Lakshmi
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Secretary

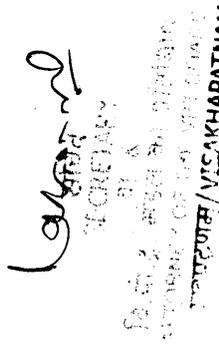
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ATTORNEY OF THE VPT BOARD

7	O&M data	NA	Please share last 10 year data on Operations & Maintenance cost of OHC. Please give a detailed break-up of cost along with major maintenance scheduled that was undertaken.	Data as available is being provided
8	Activities & obligations to be undertaken by the Authority	NA	Can we get a schedule and commitments from the Authority for its share of work in the Project? As there is interdependence of work, same would help us in streamlining our project execution and simultaneous operations.	The same shall be facilitated as per the provisions of Concession Agreement.
9	CFO/ Compliance cost	NA	Can authority share CFO compliance costs that it expects for OHC and WQ-1?	The provisions made vide Appendix 8 of the Draft Concession Agreement holds good.
10	Power	NA	Can any sub-station be used during construction & operations or there is restriction on usage of sub-station?	Sub stations envisaged in the project within OHC premises can be used by the concessionaire.
11	Automation	NA	Please confirm that Relay to PLC conversion is not Mandatory, however desirable.	It is Mandatory. Please refer 12.7 of TEFR
12	Right of way/ Encroachments/ Existing structures	NA	Please confirm that the Authority shall provide right of way (on any encroachments/ existing structures) & clearances on existing structure if need be in timely manner to enable Concessionaire in building the Project in most optimal manner.	The same shall be facilitated as per the Provision of Concession Agreement.
13	Appendix-4: Project requirements	NA	Inner harbour currently handles more than 6 MTPA annually. With OHC going for Up gradation, more cargo will get diverted to Inner Harbour – hence it is expected that 2 MTPA throughput in inner harbour will be reached within 4 months or less from date of award of concession. Does	Phase I is expected to commence immediately upon the date of award of Concession. Phases II would commence on fulfillment of the condition that either the threshold limit of 12.5 MTPA at Outer Harbour is attained or 2 MTPA traffic at Inner Harbour, which ever is earlier.

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			that mean, Concessionaire has to start development of WQ-1 within such timeline (if inner harbour does more than 2 MTPA) or this clause is applicable only post COD for OHC Up gradation (Completion of Phase-1) is completed & after that all the triggers of 12.5 MTPA at OH or 2 MTPA at IH will be applicable or are these triggers applicable even during construction of Phase-1.	However there is no restriction on the Concessionaire to execute Phase II co-terminus with Phase I. For more details please refer Appendix 4 (Project requirements) of DCA.
14	O & M of assets	Clause 3.1	Till award of concession (i.e. till fulfillment of all condition precedent) – VPT will continue to operate the assets (OHC etc) as they are doing now. Please confirm if our understanding is correct.	Yes, understanding is correct:
15	Condition precedent	Condition precedent 3.1	As per the project schedule at Appendix V, the project is being executed in 2 phases. The 1 st phase for completion of project at outer harbour and 2 nd phase for completion of new facility at Inner harbour. The 2 nd phase is dependent on certain parameters. However, Article 3.1 does not clarify that, the phase 2 conditions precedent shall be complied after those parameters are attracted and not at the 1 st phase itself. The Article 3.1 shall be suitable modified, clearly stating the phase wise compliance with the conditions precedent.	Compliance of Condition Precedent is applicable for both Phases separately.
16	Condition precedent	3.1(b) (i): Clearances required for the Project read with Appendix	The VPT is required to procure the clearances for the project. As per Note 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	Provisions made in Appendix – 8 of the DCA hold good

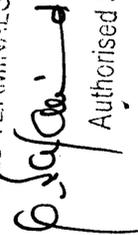
For ESSAR VIZAG TERMINALS LIMITED

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		Appendix 8	<p>may also include consent for establishment. "Appendix 8 to the DCA states that obtaining of Consent for Establishment is Concessionaire's responsibility. As the Authority is most suited to obtain all statutory clearances combined with view above, it is required to delete the said para from Concessionaire's responsibility at Appendix 8 (A) and shall be added to the Concessioning Authority's responsibility Appendix 8 (B). Kindly confirm that current Environment Clearance is valid & VPT shall obtain Consent for Establishment (CFE) basis that</p>	
17	Capital dredging	Article 6.4 & Article 7.1 (a) (i) and Article 7.1 (a) (ii) and Appendix 4; Dealing with Capital dredging	<p>We understand that capital dredging near berth face is to be done only during construction phase. However, we notice that same is mentioned during operation & maintenance as well as some other places - which is inconsistent. Also maintenance dredging is typically in scope of Authority. Please clarify this. Please confirm if our understanding is correct about Capital Dredging and Maintenance dredging. In light of this, request the Authority to modify / delete clause talking about capital dredging during O&M phase and other with view to avoid confusion at a later stage.</p>	<p>It is to clarify that, both capital and maintenance dredging upto 60 mtrs from the face line of the berth for OB1 and OB2 at Outer Harbour and 50 mtrs from the face line of the berth in case of WQ1 berth at Inner Harbour shall be the responsibility of the Concessionaire as per the provision of Concession Agreement. However, the provisions of DCA holds good.</p>
18	Condition precedent	3.1	<p>We understand that, the area proposed to be licensed to the concessionaire for the project is a custom notified area as required under the provision of section 8 of the Customs Act. If the same is not</p>	<p>Provisions made in Appendix - 8 of the DCA hold good. Custodianship has to be obtained by the Concessionaire as per Section 45 of the Customs Act and will be notified as per Section 8 of</p>

For ESSAR VIZAG TERMINALS LIMITED


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			of the Customs Act. If the same is not notified, then same shall be notified by VPT and shall be included as a Condition Precedent for Port Authority and Appendix 8 shall be modified accordingly.	Customs Act.
19	CISF	12.2 (E) induction of CISF or other forces by VPT	The clause dealing with induction of CISF forces for the security of Project site/project assets shall be retained in view that the same forms part of Model Concession Agreement.	Clause 12.2(E) of DCA holds good.
20	Expense towards custom & security personnel	Clause 7.1a	Please confirm VPT will continue to bear expenses towards customs and security including ISPS for OHC & for WQ-1?	NO. This is in the scope of concessionaire.
21	MGT	Clause 7.1a	MGT requirements are very high vis-à-vis Model Documents and pose huge risk to the Concessionaire. Given the current ban on iron ore exports and dwindling iron ore exports volume, request the Authority to moderate the same as per Model documents or even make it less than Model Documents. Kindly note that it is in best interest of Concessionaire to maximize throughput, however current level of MGT pose huge risk which are difficult to even account for and are not investment friendly. Request the Authority to limit it to 10 MTPA post 6 years of operations till end of concession. What happens if WQ-1 does not come up because no clause gets triggered? We	The MGT envisaged in the DCA is in order which is already been approved by PPPAC.

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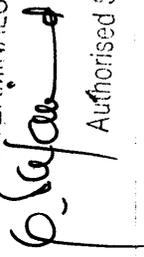

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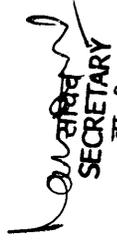
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ATTORNEY OF THE VPT BOARD
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			believe MGT then should be less than 7 MTPA.	
22	Royalty	Clause 7.1 b	Does Concessionaire have to pay royalty on revenues generated from sale of unclaimed cargo? Please confirm.	As per the provisions in the Concession Agreement.
23	Additional Cost	Clause 7.1.c.i	Please let us know mechanism evolved by VPT for sharing of common cost. Kindly share what are these costs and their quantum.	As per the provisions in the Concession Agreement.
24	Payment to Authority	Clause 9.1A	Request authority to do away with one year premium & 5 year BG over and above License Fee for both OHC and WQ-1 area to make proposal attractive. Also, for area under WQ-1, the amount of one year premium is mentioned equal to that of OHC. Please correct the typographical error. Payment for License fee towards WQ-1 area should start with start of construction of Phase-2 and not from award of concession. Please confirm.	Payment of License fee towards WQ-1 area shall start from the date of commencement of construction of Phase 2.
25	Utilities and services	Clause 9.3	Concessionaire is paying Rs.11.4crore towards existing utilities and services as a part of upfront fee. In light of this, request authority to not charge additionally during construction – that too at double the rates as per SOR.	The upfront fee is for handing over the existing facilities as per the bidding documents. The utilities and services shall be as per the provisions of Clause 7.2 of Draft Concession Agreement. The applicable statutory approvals shall be the responsibility of the concessionaire as per the provisions of the Concession Agreement.
26	Exclusivity	Clause 12.2c	Please mention what cargo each berth as mentioned in this clause is allowed to handle as per their respective agreements and bid documents. List of berths is WQ-7	WQ-North(WQ-7&WQ-8) – dry bulk cargo viz., Import Manganese ore, Gypsum, Bauxite, Lime Stone, Export BF Slag, Export ilminite sand, Export of Ores other than iron

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			& 8, EQ-8 and 9, EQ-1A, EQ-1, GCB etc.	ore and pellets EQ-8 and EQ-9 – Coal, Limestone, Rock phosphate, sulphur and other bulk cargo or general cargoes or container or liquid bulk cargo (non-hazardous) EQ-1A – thermal coal and steam coal EQ-1 – Steam Coal GCB - Coking coal & Steam coal
27	Chart Datum	Clause 21.1	Chart datum is missing	Chart Datum is 0.80 Meters below MSL.
28	RoW & Land	Appendix-1, 1.3	Statutory approvals for diversions of Telephone, Power, drains & water lines should be provided by the Authority and this needs to form part of condition precedent along with provision of Consent for Establishment (CFE). Once all approvals are in place, Concessionaire can mobilize the resources for simultaneous construction and operations of OHC. VPT is in best position to do this while it is difficult for Concessionaire to estimate timeline & cost for this & these approvals can potentially delay the project implementation affecting both parties negatively.	Appendix 1, Clause 1.3 of DCA holds good
29	Other cargo	Appendix-4, Phase-II B	As the facility is designed for iron ore, if same is used for other cargo – there would be substantial costs on cleaning the system. This will also pose many operational issues. We request the Authority to remove this clause.	Appendix-4 phase-IIB of DCA holds good

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30	Project Schedule	Appendix-5	Given the various approvals required as condition precedent to start of construction as per point 23 above, we request the Authority to provide timelines and commitments for all the obligations and activities it has to complete – so that Concessionaire can design the CPM needed.	Appendix-4 of DCA holds good
31	Permits and clearances	Appendix-8	On award of concession, we understand it is VPT's responsibility to provide alternate jobs & manage existing people at OHC – both permanent as well as contracted; while Concessionaire can bring in new people to operate OHC & start construction. Please confirm if our understanding is correct.	The understanding is correct.
32	Performance Standards	Appendix-15	The performance standards far exceed the Model Concession Agreement norms. Kindly note that it is in best interest of Concessionaire to achieve better norms, however putting higher norms pose additional risks for Concessionaire which are not investment friendly. Request the Authority to bring it to level of norms as mentioned in MCA or lower.	Appendix is in order.
33	Power Supply	2.6 of TEFR, Page-12 & 7.2 (a) of DCA, Page-64	Port is already drawing power from APSEB for OHC, however for the project the PPP operator has to make his own arrangement. Whether power supply can be extended with a separate meter for the PPP operator. However, as per DCA the Concessioning authority shall during the concession period provide access to the Concessionaire to all infrastructure facilities including electricity from	Port will extend the facility on chargeable basis only during Phase I construction period.

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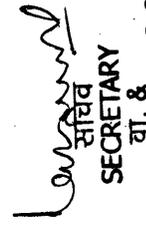

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34	Water Supply	2.7 of TEFR, Page-12 & 7.2 (a) of DCA, Page-64	APTRANSO. Port is at present getting water supply from GVMC and it's own underground source. However supply of water for the project is not envisaged & PPP operator has make his own arrangement. Whether water supply can continue with a separate water meter by the PPP operator. Also whether the PPP operator can continue using the underground water source of VPT. However, as per DCA the Concessioning authority shall during the concession period provide access to the Concessionaire to all infrastructure facilities including water from GVMC.	Provisions of Draft Concession Agreement holds good.
35	Agreement with M/s Essar & NMDC	Appendix-4, S.No. - E) of DCA, Page-147	Agreement between M/s ESSAR & VPT may please be shared to understand the integration of the facilities with Essar pellet plant and also their dispatches at OB and commitments. Also the Agreement between VPT & NMDC may please be provided.	Data as available is being provided
36	Statutory approvals		The present statutory approvals for EC, EIA, Railways, Wagon tippler's, Customs, Electricity, Water may be shared.	Provisions made vide Appendix 8 of DCA holds good.
37	Operation & Maintenance		Whether there will be an overlap of existing VPT O&M team after the award of concession for some time for smooth transition to take over.	Operations and maintenance is the responsibility of concessionaire from the date of award of concession. However if the concessionaire desires, he may, 1) Make use of the services of the retired employees of VPT through any scheme or by conducting selections. 2) Utilize the services of the existing staff on deputation subject to

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		page - 148		
43	Operations from OB1		The Operations from OB1 will be difficult with the present PC1 conveyor. As such this conveyor needs to be dismantled.	As and when required by Concessionaire, it will be removed.
44		7.5 of TEFR Page-51	Since the upfront fee is paid for existing facility, whether the structures and equipment to be replaced belong to concessionaire.	understanding is correct.
45	Equipment		Layout of drive systems of the conveyors with ratings of motors, gear box and year of their manufacture.	Data as available is being provided
46	Tariffs		Existing Electricity tariff may be shared – both fixed and variable.	Data as available is being provided
47	Equipment		Transformer year of manufacture is required for assuring their replacement.	Data as available is being provided
48	General		Loading criteria adopted for both OB1/OB2 as well as WQ-1 may be provided for studying strengthening measures if any. Also scope level of WQ-1 berth.	Data as available is being provided.
49	General		Bathymetric details in outer harbour and WQ-1 may please be made available.	Data as available is being provided.
50	General		Can new berthing line be brought forward in front of the existing berthing line during modification.	Can be permitted subject to Clause 1.1.3 of RFP and with the approval of Independent Engineer and Concessioning Authority.
51	General		Topographic maps for both backup areas for WQ-1 & existing ore stacking area be made available.	Data as available is being provided.
52	General		The soil exploration data of Ore berth & WQ-1 may please be made available.	Data as available is being provided.
53	Land/Area		The project/operation battery limit or boundary area needs to be defined.	Data as available is being provided.
54	Land/Area		The Concessionaire request to provide a	The details of Upfront fee is available in

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			copy of detail calculation of upfront fees.	Table No.7.3 under A,B & C of TEFR.
55	Land/Area		The concessionaire presumes that the land rent for existing berth is already included in the upfront fees	Provisions of Draft Concession Agreement holds good.
56	Land/Area		The Concessionaire request the CA to provide all existing/future planned underground services diagram/drawing to avoid any mishaps in future.	Provisions of Draft Concession Agreement holds good
57	Railway		Request to provide the permission/clearance document from IR or any of the competent authority for the existing railway operation inside VPT premises for the Project.	Provisions of Draft Concession Agreement holds good.
58	Railway		The Concessionaire understand that the required permission/ basic approval must be taken care from competent authority in VPT yard for construction of new railway line as well as wagon tippler proposed in Phase-II of the project. This should form part of condition precedent of the Concessioning Authority. Please provide details and confirm our understanding.	Provisions of Draft Concession Agreement holds good. The responsibility of Commercial/ Railway operations shall be the responsibility of the Concessionaire and the Concessionaire shall enter into Agreement with the concerned statutory authorities, as required as per the provisions of Draft Concession Agreement.
59	Environment	Draft CA page 152	Can we presume that the present draft upto the 60m from the face of berth (WQ1) is -12.5 from MSL and this is sufficient to allow the maximum size of the vessel as planned?	Provisions of Draft Concession Agreement holds good.
60	Environment	Draft CA page 152	Port wants the concessionaire to undertake capital dredging at Ore berth 1 & 2 as well as WQ1. Please confirm that necessary clearances are in place for same. We request the Authority to share the same. In case same are not in place, please confirm that necessary statutory clearances	Provisions of Draft Concession Agreement holds good.

61	General		required for undertaking capital dredging shall be obtained by the Concessions Authority. Please share Design capacity of cribs / piles at WQ1 for design of installation of ship loaders. Also cribs capacity of OB1 & 2 may please be provided.	Provisions of Draft Concession Agreement holds good.
62	General		The stackyard ground improvement at OHC will involve in disposal of huge quantity of unserviceable earth. Please confirm that land to be allocated for the disposal to concessionaire free of cost within VPT premises. In case this is not the case, please let us know what would be charges for same and where this land parcel will be provided – as that would be necessary for us to estimate overall cost.	Low lying area will be allocated within Port owned areas as per the VPT Regulations and as per the provisions of Draft Concession Agreement.
63	Condition Precedent	Condition precedent 3.2	The period of 90 days given for compliance with condition precedent is not sufficient considering the conditions to be satisfied as per Article 3.1 of the Draft Concession Agreement. The said period shall be extended by another 90 days i.e., 180 days for complying with conditions precedent.	The period for compliance of the Conditions Precedent for the Phase I Project is modified as 120 days from the date of award. Similarly for the compliance of the Conditions Precedent for the Phase II, it is 180 days from the date of attaining the threshold limit of 12.5 MTPA at Outer Harbour or 2 MTPA traffic at Inner Harbour, which ever is earlier.

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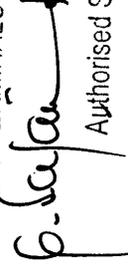

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ANNEXURE-I (Contd)

PROPOSED REPLIES FOR THE PRE BID QUERIES OF STERLITE PORTS LIMITED GIVEN ON 13.03.2013

S.No.	Subject/ Contents of the Clause	Clause No. & Page No.	Clarifications Sought/ Required	Clarifications given
1	General	NA	Please share historical data of Consumables for the past 10 years	Data as available is being provided
2	General	NA	Please share historical data of major & critical maintenance carried on major equipments for the past 10 years	Data as available is being provided
3	General	NA	Please share list of available mechanical and electrical spares available with VPT which will be handed over to the Concessionaire.	Data as available is being provided
4	General	NA	Please share monthly yearly consumption data for OHC for past 10 years.	Data as available is being provided
5	General	NA	Please share time available between two vessels which can be used for construction. Also, please share the berth occupancy details every month. This will help us plan the project schedule. Please share number of hours every month for	Data as available is being provided

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ATTORNEY OF THE VPT BOARD
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				which OB-1 and 2 were vacant. 1) Time available every month between vessels. 2) Time available without vessels	
6	General		NA	Please let us know if front face of WQ-1 berth be brought forward from the existing line, if we have to construct additional row of piles for supporting new ship loader crane rails.	Can be permitted subject to Clause 1.1.3 of RFP and with the approval of Independent Engineer and Concessing Authority.
7	General		NA	Please share any study/recommendation done by any party for safety of OB structures	Data as available is being provided.
8	General		TEFR, clause 13.3 page 89	Please provide all the drawings which have been referred in this page	Data as available is being provided
9	Project Requirements		DCA, Appendix 4, Page 146	Please confirm that condition of 8000 TPH will be based on capacity of equipment as certified by OEM & reaching that capacity is not mandatory for achieving COD – as achieving 8000 TPH is dependent on many other factors including specific density of material etc.	Provisions in the DCA holds good.
10	Time Extension		NA	Please extend the time line for bid submission by minimum 8 weeks.	The Project is targeted for this financial year by the Ministry. Hence, extension of bid due date is not feasible. All the bidders are requested to submit the bid as per the Project time schedule.

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ANNEXURE - II

S.No.	Reference document	Reference	Query	Clarifications given
A	General			
1	Feasibility Report (TEFR)	General	While the up gradation work on the outer harbour berths is in progress, can the concessionaire handle cargo at these berths, and if yes, kindly explain the methodology for the same./ More particularly, kindly also explain how the conveyor can be used for moving cargo while the conveyor system is undergoing strengthening, replacement or up gradation.	Major shutdowns can be taken up in planned manner during ship gaps as and when required to ensure all the works are completed in time. However, it is the discretion of the concessionaire to plan all the works so that entire replacements/strengthening are carried out within 24 months from the date of award of contract..
2	Draft Concession Agreement (DCA)	Bank Guarantee for Phase-II	Kindly clarify the value of BG to be submitted for Phase-II work (WQ-1 berth)	The Value of BG to be submitted is Rs.25 crores
3	DCA	Appendix 14	The minimum guarantee throughput specified in the Draft Concession Agreement (DCA) is very high, particularly considering the present scenario of ban on iron ore mining and exports. In view of this, we request you to kindly reduce the same by 50%.	The MGT envisaged in the DCA is in order which has been already approved by PPPAC.
4	TEFR	Mecon valuation Report	Kindly provide Valuation report of Mecon for the existing equipment deployed on the outer harbour berths. Also kindly explain the basis for arriving at the Reserve Price of Rs.186 Crore for the same.	The report submitted by the consultant, i.e., M/s MECON is provided
5	DCA	Appendix 8	Kindly clarify whether Environmental Clearance would be required for the project and whether that needs to be taken separately for Outer Harbour and inner harbour berths. If VPT is responsible for obtaining the Environmental Clearance, kindly provide the status for the same.	Provisions made vide Appendix 8 holds good.

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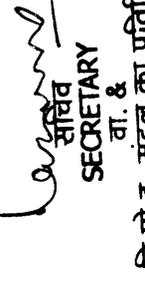
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6	DCA	Clause Page No.147 of DCA	Total area to be provided for Phase-I development is mentioned as 119.44 Acre () in CA. What is area available for Stockyard for Phase II	The Provisions of Land for Phase I and Phase II shall be as per Clause 9.1(A)(i) and Clause 9.1(A) (ii) of Article 9 of Draft Concession Agreement.	
7	DCA	Sl.-12 of Table on page no.149 of DCA	For consolidation of two stockpile (east & middle), can concessionaire choose the strengthening type which is techno economically optimum/	The strengthening plans proposed by VPT are indicative and based on VPT's experience. However, the Concessionaire can choose any strengthening type of their own, confirming to the performance standards and technical specifications, as per the provisions of the Concession Agreement, subject to approval of the Independent Engineer and the Concessing Authority.	
8	DCA	Clause 16 page no.151 of DCA	In DCA it is mentioned that green plantation & perimeter walls to contain finer particles are to be provided around staking area. How much land will be available for plantation? Whether this land is beyond 119.44 Acres.	The land allotted is inclusive of provision of green plantation and the same shall be responsibility of the Concessionaire as per the directives of statutory authorities.	
9	DCA	Clause-2 page NO.153 of DCA	Ship loading equipment at WQ-1 berth is envisaged for 3000 TPH in CA. Can it be altered by BOT operator?	Selection of the equipment is in the scope of the Concessionaire without affecting the technical and performance standards, duly obtaining the approval of the Independent Engineer and the Authority.	
10	DCA	Page no.153 of DCA	It is noted that different belt width for receiving and shipping conveying system (which is 1200 & 1600mm respectively) is mentioned. Pl. clarify why there is different belt width to handle same capacity (3000 TPH)	Selection of the equipment is in the scope of the Concessionaire without affecting the technical and performance standards, duly obtaining the approval of the Independent Engineer and the Authority.	
11	DCA & TEFR document	Table on Page 149 of DCA, Page no.4 of TEFR	In CA & TEFR at many places terms are mentioned as "Twin wagon tipplers" and "Third wagon tippler" does "Twin wagon tipplers" mean two different single wagon tipplers in same shed?	1. Twin tipplers are two tipplers operated with the common hopper. This is rotor type tipplers. 2. Third tippler is rotary type tippler. There are two separate streams for receiving system with interchanging facility.	
12	DCA & TEFR document	Clause 9 page no.150	Please clarify quantity & life of locos to be handed over to BOT operator. As per DCA, 7	For Phase I the existing 7 locos will be handed to concessionaire on the date of award of	

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		of CA, Table 7.2 on page no.48/19 of TEFR	nos. of locos shall be provided to BOT operator on "as is where is basis", however, TEFR states that 2+2 locos pertain to inner harbour and not to be considered.	concession along with other equipments.
13	TEFR document	Last paragraph page no.4 of TEFR	In TEFR it is mentioned that Phase-II envisages procurement of Tippler, ship loader, two nos, of stacker cum reclaimers, one twin tippler with side arm charger.... Are there two tippers (single & twin) envisaged for Phase-II?	It's a twin wagon tippler in Phase II
14	TEFR document	Table 7.2 on Page NO.48 of TEFR	In TEFR it is mentioned that there are only two stackers physically available, i.e., ST-II & ST-III. The layout drawing is showing ST-I associated with stockpile east & middle. Does it mean these stock piles are inoperative as on date?	There are only 2 nos. of Stackers at OHC, i.e., Stacker I & III, operating for 4 stockpiles. (East, Middle, West and West of West) Stacker I is operating in the east and middle and stacker III is operating in the west and west of west stockpile. West of west stockpile is Essar leased area.
15	TEFR document	Table 7.3 on page no.49/50 of TEFR	As per table 7.3 of TEFR, valuation of Reclaimers which needs replacement is same as valuation of Reclaimers which are in working condition, please clarify?	This assessment is carried out by M/s Mecon (tech consultant) basing on their standard procedure.
16	TEFR document	Table 7.3 on Page no.50/51 of TEFR	Valuation of additional items as per Table 7.3 includes equipment / sub components of the equipment already considered in "Residual value of items which needs replacement" please clarify duplication of valuation.	Table 7.3 is in order.
17	TEFR document	Page no.54 of TEFR	Under procurement of belts (pg.no.54) the belt width and the qty. of belt to be procured is indicated. However, belt ratings is also required.	Provided.
18	TEFR document	Point 10 & 11 on page no.57 of TEFR	Pg.no.57, point no. 10&11, the conveyor specification and GA drawings are required to upgrade / modernize the existing system.	Data as available is being provided
19	TEFR document	Point No.20 on page no.58 of TEFR	Pg. No.58, point no.20 for dust suppression system, all the transfer points and GA drawings of transfer houses are required.	Data as available is being provided

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20	TEFR document	Page no.62 of TEFR	Whether bidders are allowed to access MECON's report regarding present condition of steel structure and plant & equipment?	The report submitted by the consultant, i.e., M/s MECON is provided
21	TEFR document	Page no.73 of TEFR	Pg. No.73, size of the electrical rooms./ pump houses and heat load is required for providing the ventilation system.	It is in order. The same is in the scope of Concessionaire.
22	TEFR document	General	RITES drawing for creation of new facility in inner harbour are not available. VPT is requested to provide the same.	Data as available is being provided
23		General	Whether bidders are allowed to access data sheets & drawings of conveyor systems & mechanical equipment.?	Data as available is being provided
24		General	Please indicate the C/C distance of the rail, maximum wheel load/ corner load allowed over the WQ-1 wharf structure. Please also indicate the permissible live load over the wharf deck.	Details as available is provided.
25		General	Does iron ore handling complex have dedicated MRSS?	Not available
26		General	The replacement of various equipment like wagon tippler, apron feeders etc., will have modifications in the structures also. Hence, the GA drawing of all the structures would be required to match the mounting of replaced equipment.	Data as available is being provided
27		General	The technical data / specification of all the equipment to be replaced would be required.	Data as available is being provided
28		General	More clarity is required on interconnection between phase-1 and phase-2 operating system.	Concessionaire has the option to have this interconnection between the two Phases duly maintaining the technical and performance standards envisaged for the Project. with the approval of the Authority
29		General	Please indicate the co-ordinates of service water as a take up point for the present project. Water availability quantity need to be specified by VPT.	Provisions made in Clause 7.2 of Draft Concession Agreement holds good. The details of the same may be assessed by the Concessionaire as per the actual site

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30	General	What is the present drainage system of operating area & stockpile? Whether water need to be treated before discharging in to the main existing drainage system.	conditions. a) The details of the same may be assessed by the Concessionaire as per the actual site conditions and necessary measurements shall be taken by the Concessionaire accordingly, since the drainage system development as required is the responsibility of the Concessionaire. b) Yes, as per the Pollution Control Board norms.
31	General	It is understood from the feasibility report that all the stock piles will be having sprinkler type suppression system and other area like transfer towers will have Dry Fog Dust Suppression System. What type of pollution control system is available at Wagon Tippler Area?	Presently overhead tank of gravity type water sprinkling arrangement is available. Concessionaire is expected to install cited sprinkling system as specified in the TEFR to ensure mitigation of dust pollution and compliance of APCCB norms.
32	General	Ventilation requirement is mentioned for the electrical premises & pump houses. Please clarify whether tunnel ventilation & ventilation system in other area (if any) is suitable for operation.	The concessionaire has to develop his own ventilation systems for all these areas.
33	General	Area, where air conditioned system is working, to be furnished.	Data as available is being provided
C ELECTRICAL & AUTOMATION			
34	TEFR Document	Pg.No.74 Electrical premises considered	Data as available is being provided
35	TEFR Document	Pg.No.75 Electrical premises construction & extension	Data as available is being provided
36	TEFR Document	Pg.no.81 Power supply	Data as available is being provided

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		arrangement	available. SLD of all panels including MCC;s to be provided.	
37	Feasibility Report	Section 12: Clause No.12.2 on Pg.No.81 Power distribution scheme	Alternative-1 drawing No.MEC/11/E1/Q6YT/02 to be provided	Data as available is being provided
38		General	Location of the 132KV substation with central control room in the Plot Plan to be provided.	Data as available is being provided
39		General	Confirmation on the space availability for 132KV switchyard expansion and expansion as required in the central control room and various other sub station rooms.	Data as available is being provided
40		General	Details of existing PLC/ Relay logic systems to be provided. This should cover the Wagon Tippler, Conveyor System, Stock yard machine system & ship loader as well.	Data as available is being provided
41		General	Details of existing control room is required i.e., no. of control room, size etc.	Data as available is being provided
42		General	Need information on existing Relay panel catering to: a) No. of motors and related signal interface b) Field instruments, type and quantities (such as belt weighting temperature, zero speed switches etc.) No. of I/O counts in the existing relay panel.	Data as available is being provided
D	CIVIL & STRUCTURAL			
43			Please furnish us the soil investigation report undertaken by agency in the proposed area where the facilities to be set up (including stockpile area, proposed wagon tippler locations and conveyor corridor and junction houses)	Data as available is being provided.
44		General	Require all the existing structural details of	Data as available is being provided.

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory


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ATTORNEY OF THE VPT BOARD
J. C. K. M. B. PATNAM

45	General	Trestles & Galleries Drawing indicating the sizes of the structure & size of the member to assess the strengthening requirement. Require all the existing structural details of buildings such as Twin tippler, third tippler, surge bin building, transfer houses etc. Drawing indicating the size of the building sizes & of the member to assess the strengthening requirement.	Data as available is being provided.
46	General	Request for all foundation details of building & equipment housed in these buildings to assess the modification/ strengthening required in these foundations.	Data as available is being provided.
47	General	Since the capacity of the stockyard machines are unchanged even after their replacement, does it be mandatory to strengthen the track foundation of stockyard machines?	The Concessionaire shall be responsible for the strengthening of the facilities as required so as to meet the performance standards/specifications as per the provisions of Concession Agreement.
48	General	To plan for new foundation of stacker & reclaim, VPT is requested to provide the details of the existing foundation of yard machines track.	Data as available is being provided.
49	General	Request for the details of area proposed to new stock yard area for inner harbour facility for Phase II	Data as available is being provided.
50	General	The land for lease earmarked as 76.380 sq.m for the development of stock yard and standing facilities on the western side of WQ8-1... Coordinates for land limit to be furnished by Port Authority.	Data as available is being provided
51	General	Require Topographical survey drawing for location of new tippler building and planning of new railway tracks.	Data as available is being provided
52	General	Detailed construction drawings of existing track system where we need to take connectivity for new tippler area.	Data as available is being provided

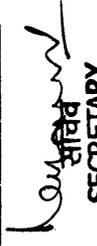
FOR ESSAR VIZAG TERMINALS LIMITED


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53	General	As per the drawing, the proposed iron ore overhaul track merges with the existing oil loop line before the beginning of bulb. The details of existing track system including the traffic on oil loop line is to be furnished by VPT.	Data as available is being provided
54	General	Require detailed working drawing showing existing tippers and other tracks to check the conditions of tracks.	Data as available is being provided
55	General	Require details of existing service lines for drinking water, firewater etc., to new facilities.	The details of the same may be assessed by the Concessionaire as per the actual site conditions. However, it is to inform that the nearest available GVMC main for the same is located within a distance of about 1.00 Km.
56	General	Whether the effects of recent development of offshore breakwater & oil terminal etc. are considered/ anticipated in the original design of outer harbour berth?	Yes.
57	General	Please confirm the applicability of original design loading condition and for the present & future scenarios, (Particularly the changes in capacity of ship loaders, wheel load configuration, changes in hydrodynamic forces in the vicinity of berth etc.)	The system is originally designed for handling at 8000 TPH.
58	General	Also the berths are protected by breakwaters, berthing condition considered will be "Sheltered Difficult" condition. VPT may please confirm.	The provisions of latest Indian Standard Specifications are applicable.
59	General	Please provide the Topographic survey Map of proposed iron ore terminal development area including the stock yards.	Data as available is being provided
60	General	As per the design requirement, following documents are required for the Engineering services of subject work: a) original design (WQ1, OB1 & OB2) b) Original drawings proposed (WQ1, OB1 & OB2) c) As-Built Drawings (WQ1, OB1 &	Data as available is being provided

For ESSAR VIZAG-TERMINALS LIMITED

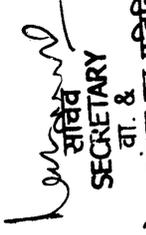

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				OB2) d) HPL report (2005) as mentioned in TEFR Sec. 9 (9.1) e) MECON TEFR (2012) Outer Harbour Mechanization for OB1 & OB2 f) RITES TEFR (2011) inner harbour mechanization for WQ berths g) Geotechnical investigation Report based on which the foundation type is arrived on. (For the WQ1, OB1/OB2 berths)			Data as available is being provided
61		Dredging details		Please provide Admiralty Chart/ Bathymetry survey chart for VPT (Inner & outer harbour)			The Concessing Authority has planned and endeavouring for implementation of deepening and widening of the navigable water ways of its inner harbour to facilitate navigation of Panamax Vessels of 230 mtrs LOA. The status of the stage-wise dredging schemes of the Concessing Authority will be made available from time to time to the Concessionaire.
62		Dredging details		Please provide ongoing & proposed dredging plan & details.			The same shall be permitted in line with Clause 1.1.3 of RFP and with the approval of Independent Engineer and Concessing Authority as per the provisions of Concessing Authority.
63		General		For strengthening of the existing berths, if there are any changes / additions in the foundation size. Whether the same would be permitted, as it may involve the breaking of super structure for the same.			It is the responsibility of the concessionaire to assess the same by their own and any modifications as required shall be acceptable, duly conforming to the performance standards and technical specifications, as per the provisions of the Concession Agreement, subject to approval of the Independent Engineer and the Concessing Authority.
64		General		Please confirm whether the existing furniture, fenders, rails or any other items are capable of taking the enhanced capacity by strengthening.			Provisions made in the Clause 1.1.3 of RFP holds good.
65		General		Please confirm whether the approval of strengthening designs and drawings from third party is mandatory?			

For ESSAR VIZAG TERMINALS LIMITED


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SECRETARY

PROPOSED REPLIES FOR THE PRE BID QUERIES OF VADINAR OIL TERMINAL LIMITED GIVEN ON 13.03.2013

S.No.	Query	Clarifications given
1	<p>Bidder have noted that shipping conveyors are having following technical features and the same to be retained after signing of CA</p> <ol style="list-style-type: none"> Belt width : 1600mm Belt Speed : 3.5 m/sec. Bulk density of material : as per TEFR / CA <p>Belt capacity will be calculated accordingly as per IS: 11592. Please confirm.</p>	Provisions in the DCA & TEFR holds good.
2	Change of conveyor driving system (if, any) shall be evaluated by bidders after examining the health of the existing system. Please confirm.	The Concessionaire may choose without affecting the technical and performance standards duly obtaining the approval of the Independent Engineer and the Authority.
3	As PPP area to operate OHC for next 30 years, replacement of existing equipment like WT, Stock Yard machines, Ship loader machine etc. associated with OHC shall be evaluated by bidders. Bidders shall be allowed to assess the time period for complete replacement of these equipment instead of duration indicated in CA. Please confirm	Provisions in the DCA holds good.
4	<p>We request for providing the following document from VPT.</p> <ol style="list-style-type: none"> Complete electrical load list of OHC area Motor GA drawing List of signals to be consider in PLC logic configuration. Layout of existing stockyard and substation rooms Any existing UPS supply available, the rating of the same to be furnished. 	Data as available is being provided
5	Request VPT to provide the battery limit drawing along with co-ordinates and existing levels in Autocad file.	Data as available is being provided

FOR ESSAR VIZAG TERMINALS LIMITED


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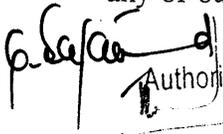

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 ATTORNEY OF THE VPT BOARD
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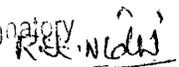
- 6 We certify that in the last three years, we or our Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority 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; and
 - b. We do not have any conflict of interest in accordance with Clauses 2.1.14 and 2.1.15 of the RFP Document; and
 - 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 Section 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; and
 - e. the undertakings given by us along with the Application in response to the RFQ for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and we shall continue to abide by them.
- 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 2.16 of the RFP document.
- 9 We believe that we satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFQ document.
- 10 We declare that we or our Associates are not a Member of 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 or any of our Associates have not been convicted by a Court of Law or indicted or adverse

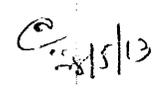
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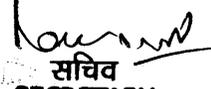
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R. K. Naidu


25/05/13


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ATTORNEY OF THE VPT BOARD
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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 or any of our Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
- 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 not disqualified in terms of the 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 guidelines referred to above, we shall intimate the Authority of the same immediately.
- 16 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 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.
- 17 We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956, or shall incorporate as such prior to execution of the Concession Agreement.
- 18 We hereby irrevocably waive any right or remedy 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.

19 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

P. Kafan
Authorized Signatory

28/05/13

Authorized Signatory

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ATTORNEY OF THE VPT BOA
विशाखपट्टणम/VISAKHAPATN

the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

- 20 We have studied all the Bidding Documents carefully and also surveyed the Port traffic. 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 relating to the Bidding Process including the award of Concession.
- 21 We offer a Bid Security of Rs.84.54 million (Rupees Eighty Four decimal Fifty Four million only) to the Authority in accordance with the RFP Document..
- 22 The Bid Security in the form of a Bank Guarantee is attached.
- 23 The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP, have been submitted in a separate envelope and marked as "Enclosures of the Bid".
- 24 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 or rejected.
- 25 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 traffic and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.
- 26 We agree and undertake to abide by all the terms and conditions of the RFP document.
- 27 We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.

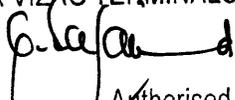
28 We hereby submit our Bid and offer 31.0100%. (Thirty one decimal zero one zero zero percent only) of the gross revenues of the Project as share of the Authority for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement.

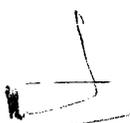
In witness thereof, we submit this Bid under and in accordance with the terms of the RFP document.

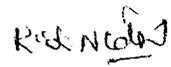
Yours faithfully,

Date: 28 March 2013

For ESSAR VIZAG TERMINALS LIMITED

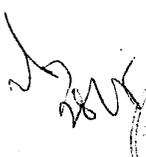

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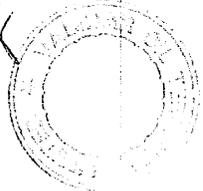

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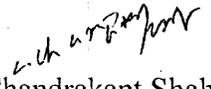

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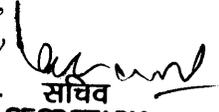

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Chandra Kant Shah,
Authorised Signatory
Vadinar Oil Terminal Ltd.




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ATTORNEY OF THE VPT BOARD
वि.पो.द्र. मंडल का प्रतिनिधि / VISHVAHAPATNAI

25-MAR-2013

VADINAR OIL TERMINAL LTD
ESSAR REFINERY SITE, 39 KM STONE,
OKHA HIGHWAY (SH-25), KHAMBALIA,
DIST. JAMNAGAR, GUJARAT - 361305

OUR REFERENCE : 007GM01130840002
ISSUE DATE : 25-MAR-2013
APPLICANT : VADINAR OIL TERMINAL LTD
GUARANTEE AMOUNT : INR 84,540,000.00
AMOUNT IN WORDS : INDIAN RUPEES EIGHTY FOUR MILLION FIVE HUNDRED FORTY THOUSAND
EXPIRY DATE : 25-SEP-2013
CLAIM DATE : 25-SEP-2013

DEAR SIRs,

PLEASE FIND ENCLOSED THE CAPTIONED GUARANTEE DULY ISSUED BY US.

THE BENEFICIARY OF THIS GUARANTEE IS ENTITLED TO CONFIRM THE AUTHENTICITY OF THIS GUARANTEE DIRECTLY BY CONTACTING THE ISSUING BRANCH OR THE CONTROLLING OFFICE AT THE FOLLOWING ADDRESS:

YES BANK LTD - AHMEDABAD BRANCH
102 / 103, C.G. CENTRE,
C.G. ROAD, AHMEDABAD,
GUJARAT - 380 009.

THIS GUARANTEE IS TO BE RETURNED TO US WITHIN 15 DAYS FROM THE DATE IT CEASES TO BE IN FORCE. IF THE GUARANTEE IS NOT RECEIVED BACK BY US WITHIN THE DUE DATE (AS MENTIONED ABOVE), IT SHALL BE DEEMED TO BE AUTOMATICALLY CANCELLED.

THIS LETTER IS AN INTEGRAL PART OF THE GUARANTEE.

IT IS CONFIRMED THAT

- 1) MR. DEEPAK RAJ K.
- 2) MR. MANISH VORA

WHO HAVE SIGNED THE ABOVE GUARANTEE/ EXTENSION, HAVE GOT REQUISITE POWER TO SIGN ON BEHALF OF BANK.

FOR YES BANK LTD

Kapadia
(AUTHORISED SIGNATORIES)



DATE : 25-MAR-2013
PLACE : YES BANK LTD - AHMEDABAD BRANCH

For ESSAR VIZAG TERMINALS LIMITED

P. S. Saini
Authorised Signatory



Ahmedabad Branch: Unit No. G-3, 101, 102 & 103, 'C. G. Centre', C. G. Road, Ahmedabad 380 009 India

Tel: +91 (79) 6631 9000/6631 9431-38 Fax: +91 (79) 6631 9430

Corporate & Registered Office: Nehru Centre, 9th floor, Discovery of India, Dr. A. B. Road, Worli, Mumbai - 400 018, India

Tel: +91 (22) 6669 9000 Fax: +91 (22) 6669 9010 Website: www.yesbank.in

Manish Vora
सचिव
SECRETARY

वि.पो.द्र. मडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशखपट्टणम / VISAKHAPATI



गुजरात गुजरात GUJARAT

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तारीख:

2013

25 FEB 2013 AE 036078

नाम:

YES BANK LTD.

पता:

100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

डॉ. ए. एस. विसाखपट्टनम लि.

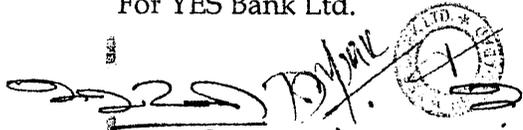
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श्री. ए. एस. विसाखपट्टनम लि.

कै. ए. एस. विसाखपट्टनम लि.

This Non-Judicial Stamp Paper forms an integral part of this Bank Guarantee Number 007GM01130840002 dated 25-MAR-2013 issued by us in favor of the VISAKHAPATNAM PORT TRUST on behalf of VADINAR OIL TERMINAL LTD

For YES Bank Ltd.

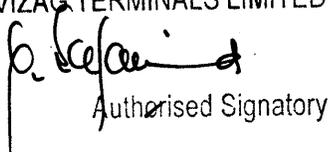


Authorised Signatories

Date: 25-MAR-2013

Place: YES BANK LTD - AHMEDABAD BRANCH

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory


सचिव
SECRETARY

वा. &
वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टनम/VISAKHAPATNAM



गुजरात गुजरात GUJARAT

65519

नंबर: ३१. २५ FEB 2013 AE 036079
 तारीख: २०१३
 नाम: YES BANK LTD.
 हेतु: YES BANK CENTER,
 डी. वा. वि. मंडल, विसाखपट्टणम,
 विसाखपट्टणम, विसाखपट्टणम, विसाखपट्टणम
 विसाखपट्टणम, विसाखपट्टणम, विसाखपट्टणम
 विसाखपट्टणम, विसाखपट्टणम, विसाखपट्टणम

an mdr
के. वा. वि. मंडल

This Non-Judicial Stamp Paper forms an integral part of this Bank Guarantee Number 007GM01130840002 dated 25-MAR-2013 issued by us in favor of the VISAKHAPATNAM PORT TRUST on behalf of VADINAR OIL TERMINAL LTD

For YES Bank Ltd.

Authorised Signatories
 Date: 25-MAR-2013
 Place: YES BANK LTD - AHMEDABAD BRANCH

For ESSAR VIZAG TERMINALS LIMITED

Authorised Signatory

सचिव
 SECRETARY
 वा. &
 वि.पो.ट. मंडल का प्रतिनिधि
 ATTORNEY OF THE VPT BOARD
 विसाखपट्टणम/VISAKHAPATNAM

Bank Guarantee for Bid Security

B.G. No. 007GM01130840002

Dated: 25-MAR-2013

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 Vadinar Oil Terminal Ltd. (a company registered under the Companies Act, 1956) and having its registered office at Essar Refinery Site, 39 KM Stone, Okha Highway (SH-25), Khambalia, Dist. Jamnagar, Gujarat - 361305 (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 **"Upgradation of existing facility and creation of new facility at Visakhapatnam Port for iron ore handling on DBFOT basis"** (hereinafter referred to as "the Project") pursuant to the RFP Document dated 12.02.2013 issued in respect of the Project and other related documents including without limitation the Draft Concession Agreement (hereinafter collectively referred to as "Bidding Documents"), we YES Bank Ltd having our registered office at Nehru Centre, 9th Floor, Discovery of India, Worli, Mumbai 400 018 and one of its branches at 102/103, C.G. Centre, C.G. Road, Ahmedabad - 380 009 (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 fulfillment 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.84.54 million (Rupees Eighty Four decimal Fifty Four million only) (hereinafter referred to as the "Guarantee") 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 fulfillment 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 fulfill and comply with the terms and conditions contained in the

For ESSAR VIZAG TERMINALS LIMITED

Page 1 of 3



P. Safai
Authorized Signatory

Sanjay
सचिव
SECRETARY
वा. &
वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
VISAKHAPATNAM

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 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.84.54 million (Rupees Eighty Four decimal Fifty Four million only).

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 fulfillment 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.
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 fulfillment 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

For ESSAR VIZAG TERMINALS LIMITED


Authorized Signatory

Page 2 of 3




सचिव
SECRETARY
वा. &
वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

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 undertake to make the payment on receipt of your notice of claim on us addressed to YES Bank Ltd 102/103, C.G. Centre, C.G. Road, Ahmedabad - 380 009 and delivered at our above branch which shall be deemed to have been duly authorized 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 unrealized.
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 authorized and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. 84.54 million (Rupees Eighty Four decimal Fifty Four million only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before 25 September 2013.

Signed and Delivered by YES Bank Ltd

By the hand of Mr./Ms. DEEPAK RAJ K. AND its and authorised official FOR YES BANK LTD. MR. MANISH VORA

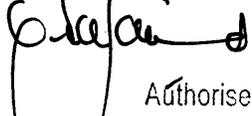

(Signature of the Authorised Signatory)

(Official Seal)



Page 3 of 3

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory


सचिव
SECRETARY
वा. &
नि.पो.द्र. मंडल का प्रतिनिधि
MEMBER OF THE PORT BOARD
वि.पो.द्र. मंडल का प्रतिनिधि

107970

CONFIRMATION LETTER ON GUARANTEE ISSUANCE

08-APRIL-13

VISAKHAPATNAM PORT TRUST
ANDHRA PRADESH - 530016
INDIA



DEAR SIR/MADAM,

THIS IS IN REFERENCE TO YOUR LETTER NO IM&EE/MOF/PROJ/OHC-WQ1/1842 DATED 03/04/2013; WE HEREBY CONFIRM THAT WE HAVE ISSUED THE BANK GUARANTEE AS PER FOLLOWING DETAILS

DCR/ECON/15/410
S&E/10/04/13
EXE(MIS)

BANK GUARANTEE NO	: 007GM01130840002
ISSUE DATE	: 25-MAR-13
CLAIM DATE	: 25-SEP-2013
EXPIRY DATE	: 25-SEP-2013
APPLICANT	: VADINAR OIL TERMINAL LTD
GUARANTEE AMOUNT	: INR84,540,000.00
AMOUNT IN WORDS	: INDIAN RUPEES EIGHTY FOUR MILLION FIVE HUNDRED FORTY THOUSAND

IT IS CONFIRMED THAT

- 10/04/13
- 1) MR. DEEPAK RAJ K
 - 2) MR. MANISH VORA

WHO HAVE SIGNED THE ABOVE GUARANTEE/ EXTENSION, HAVE GOT REQUISITE POWER TO SIGN ON BEHALF OF BANK.

FOR YES BANK LTD.

Kapadia
(AUTHORISED SIGNATORIES)

DATE : 08-APRIL-13
PLACE : YES BANK LTD - AHMEDABAD BRANCH

For ESSAR VIZAG TERMINALS LIMITED

G. Kapadia
Authorised Signatory

Manish Vora
सचिव
SECRETARY
वा. &



ESSAR

PORTS

Vadinar Oil Terminal Limited
Equinox Business Park
1st Floor, Tower - 2
Off Bandra Kurla Complex
L.B.S. Marg, Kurla (W)
Mumbai 400 070.
India

T +91 22 6733 5000
F +91 22 6708 2188
www.essar.com



Date: 17 September 2013

To:
Chief Mechanical Engineer,
Mechanical & Electrical Engineering Department,
Visakhapatnam Port Trust,
Visakhapatnam – 530 035

Dear Sir,

Sub: **Upgradation of the existing facility and creation of new facility at Visakhapatnam Port for Iron Ore handling on DBFOT basis - Extension of Bank Guarantee**

With write with reference to your letter No. IM&EE/MECH/OHC-WQ1/5050 dated 6th September 2013 regarding extension of validity of bid security in the form of Bank Guarantee.

As requested, we are pleased to extend the validity of the Bank Guarantee for a period of six months upto 25.03.2014. Kindly find enclosed original Bank Guarantee No. 007GM01130840002 dated 13 Sept 2013.

Kindly acknowledge receipt.

Thanking You,

Yours sincerely,

For **Vadinar Oil Terminal Limited**

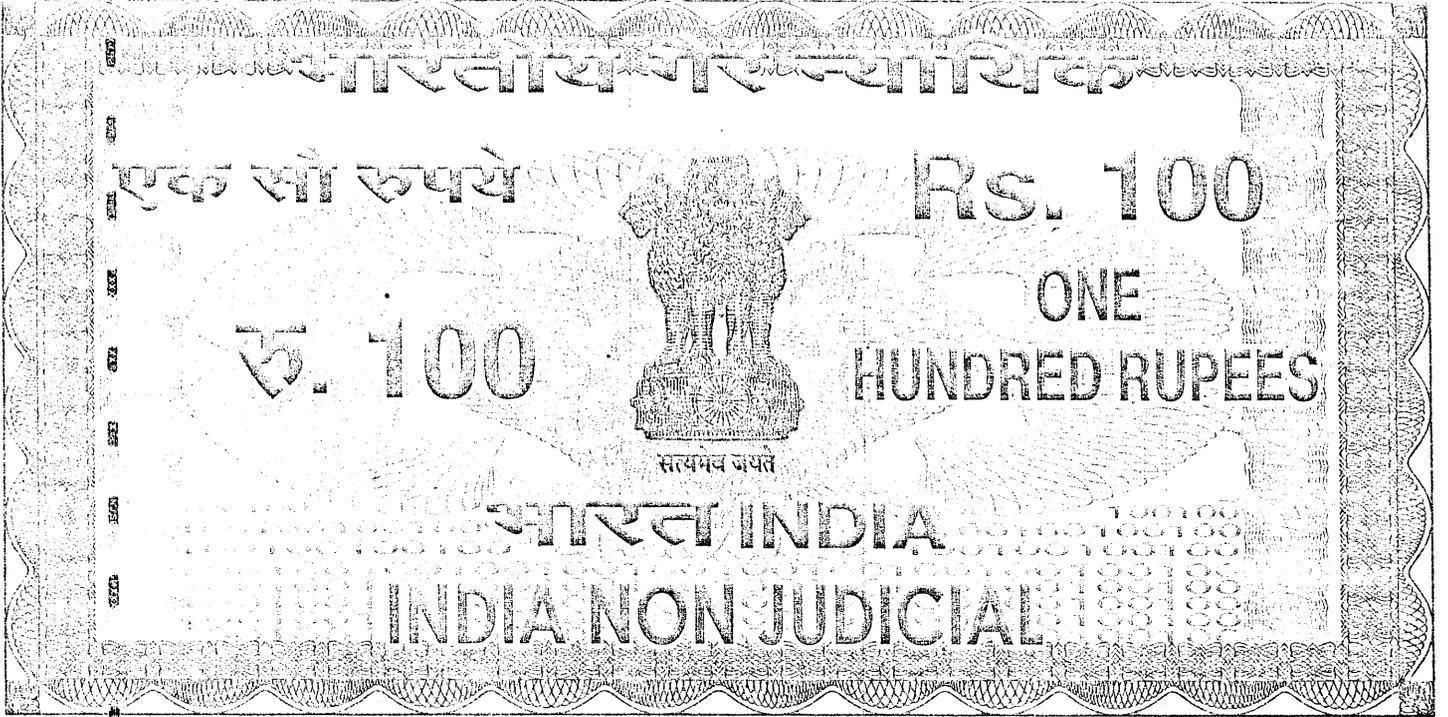
For **ESSAR VIZAG TERMINALS LIMITED**
Authorised Signatory

Vadinar Oil Terminal Limited
Registered Office Address : Essar Refinery Site, 39 Km Stone, Okha Highway (SH-25), Khambalia, Dist. Jamnagar, Gujarat - 361305.

STEEL | ENERGY | INFRASTRUCTURE | SERVICES

सचिव
SECRETARY
वा. &

वि.पो.ट. मंडल का प्रतिनिधि
T +91 2833 661449 F +91 2833 662929



गुजरात गुजरात GUJARAT

AF 621930

नं. : 2 6 AUG 2013
 तारीख: माह 2013

नाम :
 ठेकांक :

30581
 YES BANK LTD.
 102/103, C. G. CENTER,
 C. G. ROAD, PANCHWATI,
 AHMEDABAD-380 009.

डॉ. ए. इतरीया
 ला. नं. अंत. पी. 820, 820/1000
 अ-8, शोला हिल, ममनगर, अमदावाद ना सफाई
 वेतारनी नदी.....

डेप्युटी

This non-judicial stamp paper forms part and parcel of this amendment dated 13-SEP-13 for Bank guarantee number 007GM01130840002 dated 25-MAR-13 issued in favour of VISAKHAPATNAM PORT TRUST by us for VADINAR OIL TERMINAL LTD

For YES Bank Limited

[Signature]
[Signature]
 AUTHORIZED SIGNATORY



Date: 13-SEP-13
 Place: YES BANK LTD

For ESSAR VIZAG TERMINALS LIMITED

[Signature]
 Authorised Signatory

[Signature]
 सचिव
 SECRETARY
 वा. &
 वि.पो.ट्र. मंडल का प्रतिनिधि
 ATTORNEY OF THE VPT BOARD
 विशाखपट्टणम/VISAKHAPATNAM



गुजरात गुजरात GUJARAT

नंबर : 26 AUG 2013
तारीख : माहे 2013

नाम :
ठेकाणुं :

डॉ. ए. शेतरीया
वा. नं. अंश.बी. ४२८, ४२८/१८८८
अ-४, शेला फ्लैट, मेमनगर, अमदावाद ना सफांदी
वेनारनी सडी.....

30562

AF 621931

YES BANK LTD.
102/103, C. G. CENTER,
C. G. ROAD, PANCHWATI
#MEDABAD-380 008.

अमदावाद

This non-judicial stamp paper forms part and parcel of this amendment dated 13-SEP-13 for Bank guarantee number 007GM01130840002 dated 25-MAR-13 issued in favour of VISAKHAPATNAM PORT TRUST by us for VADINAR OIL TERMINAL LTD

For YES Bank Limited

[Signature]
AUTHORIZED SIGNATORY



Date: 13-SEP-13

Place: YES BANK LTD
For ESSAR VIZAG TERMINALS LIMITED

[Signature]
Authorised Signatory

[Signature]
सचिव
SECRETARY
वा. &

वि.पो.ट. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM



गुजरात गुजरात GUJARAT

30563 AF 621932

नंबर : 26 AUG 2013
 तारीख : माहे २०१३

नाम :
 ठेकाभुं :

YES BANK LTD.
 YES BANK CENTER,
 CHANDRA PANCHWATI,
 CHANDRA PANCHWATI-330 009

Handwritten signature

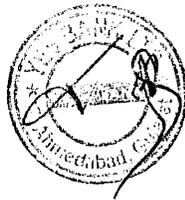
डॉ. ए. डी. डोतरीया
 ला. नं. अ.स.पी. ४२८, ४२९/१९९९
 अ-४, स्नेहा इवट, मंगलगर, अमदावादी ना अणंदी
 बेंगलूर-५२०००१

Handwritten signature

This non-judicial stamp paper forms part and parcel of this amendment dated 13-SEP-13 for Bank guarantee number 007GM01130840002 dated 25-MAR-13 issued in favour of VISAKHAPATNAM PORT TRUST by us for VADINAR OIL TERMINAL LTD

For YES Bank Limited

Handwritten signature
 AUTHORIZED SIGNATORY



Date: 13-SEP-13

Place: YES BANK LTD

For ESSAR VIZAG TERMINALS LIMITED

Handwritten signature
 Authorized Signatory

Handwritten signature
 सचिव
 SECRETARY

वा. &
 वि.पो.द्र. मंडल का प्रतिनिधि
 ATTORNEY OF THE VPT BOARD
 विशाखापट्टणम/VISAKHAPATNAM

LETTER OF AMENDMENT

DATE : 13-SEP-13

VISAKHAPATNAM PORT TRUST
ANDHRA PRADESH - 530016
INDIA

BANK GUARANTEE NO : 007GM01130840002
DATED : 25-MAR-13
AMOUNT : INR84,540,000.00
AMOUNT IN WORDS : INDIAN RUPEES EIGHTY FOUR MILLION FIVE HUNDRED FORTY THOUSAND
AMENDMENT NO : 1
AMENDMENT DATE : 13-SEP-13

WE YES BANK LIMITED, AT THE REQUEST OF APPLICANT VADINAR OIL TERMINAL LTD DO HEREBY AMEND OUR ABOVE MENTIONED BANK GUARANTEE AS FOLLOWS:
AMENDMENT CLAUSES ARE

1) GUARANTEE EXPIRY DATE & CLAIM EXPIRY DATE ARE EXTENDED UPTO 25-MARCH-2014 INSTEAD OF EXISTING.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

THIS LETTER WILL FORM AN INTEGRAL PART OF GUARANTEE NUMBER 007GM01130840002 DATED 25-MAR-13 AND ATTACHED THERETO

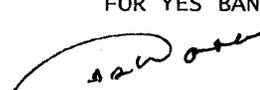
NOTWITHSTANDING ANYTHING CONTAINED HEREIN ABOVE;

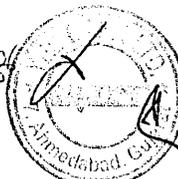
1. OUR LIABILITY UNDER THIS GUARANTEE SHALL NOT EXCEED INR84,540,000.00 INDIAN RUPEES EIGHTY FOUR MILLION FIVE HUNDRED FORTY THOUSAND
2. THIS BANK GUARANTEE SHALL BE VALID UP TO 25-MAR-2014
AND
3. WE ARE LIABLE TO PAY THE GUARANTEED AMOUNT OR ANY PART THEREOF UNDER THIS BANK GUARANTEE ONLY AND ONLY IF YOU SERVE UPON US A WRITTEN CLAIM OR DEMAND, ON OR BEFORE 25-MAR-14 AT:

YES BANK LIMITED
102 / 103, C.G. CENTRE,
C.G. ROAD, AHMEDABAD,
GUJARAT - 380 009.

FOR YES BANK LIMITED

AUTHORIZED SIGNATORY


AMIT DABHI
D-157039

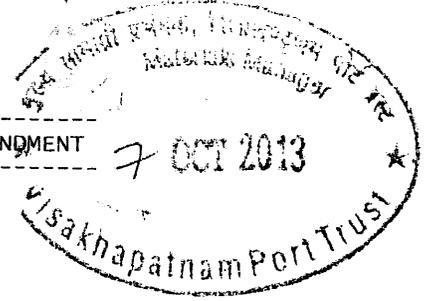
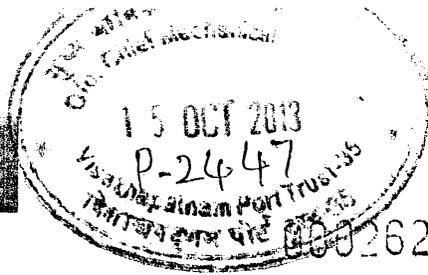

DEEPAK RAJ
185608

For ESSAR VIZAG TERMINALS LIMITED


Authorized Signatory


सचिव
SECRETARY
वा. ३
वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM

YES BANK



LETTER OF CONFIRMATION ON GUARANTEE AMENDMENT

04-OCT-13

VISAKHAPATNAM PORT TRUST
ANDHRA PRADESH - 530016
INDIA

DEAR SIR/MADAM,

THIS IS IN REFERENCE TO YOUR LETTER NO IM & EE/MECH/OHC-WQ1/5344
DATED 26/09/2013; WE HEREBY CONFIRM THAT WE HAVE AMENDED
THE BANK GUARANTEE AS PER FOLLOWING DETAILS

BANK GUARANTEE NO	: 007GM01130840002
ISSUE DATE	: 25-MAR-13
CLAIM DATE	: 25-SEP-2013
EXPIRY DATE	: 25-SEP-2013
APPLICANT	: VADINAR OIL TERMINAL LTD
GUARANTEE AMOUNT	: INR84,540,000.00
AMOUNT IN WORDS	: INDIAN RUPEES EIGHTY FOUR MILLION FIVE HUNDRED FORTY THOUSAND
AMENDED DATE	: 13-SEP-13
AMENDED EXPIRY DATE	: 25-MAR-2014
AMENDED CLAIM DATE	: 25-MAR-2014

for na ph
DCR/OTC

EXE(m/s) IT IS CONFIRMED THAT

- 1) MR. AMIT DABHI
- 2) MR. DEEPAK RAJ K

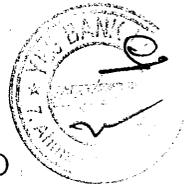
WHO HAVE SIGNED THE ABOVE GUARANTEE/ EXTENSION, HAVE GOT REQUISITE POWER TO SIGN ON BEHALF OF BANK.

15/10/13

FOR YES BANK LTD

(AUTHORISED SIGNATORIES)

DATE : 04-OCT-13
PLACE : YES BANK LTD - AHMEDABAD BRANCH



For ESSAR VIZAG TERMINALS LIMITED

for na ph
Authorised Signatory

for na ph
सचिव
SECRETARY
वा. &

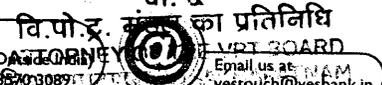


SMS "Help" space <CUST ID>
to +91 92233 90909



1800 2000 (Toll Free for Mobile & Landlines in India) +91 22 30993600 (When calling from Outside India)
Toll Free number from USA / Canada: 1877 659 8044 UK: 808 178 5133 UAE: 8000 3500089

YEASTOUCH PhoneBanking Number:



Corporate & Registered Office: Nehru Centre, 9th floor, Discovery of India, Dr. A. B. Road, Worli, Mumbai - 400 018, India. www.yesbank.in

Ahmedabad Branch: Unit No. G-3, 101, 102 & 103, 'C. G. Centre', C. G. Road, Ahmedabad 380 009 India.

Tel: +91 (78) 4421 0000 / 4421 0001 / 4421 0002 / 4421 0003 / 4421 0004 / 4421 0005 / 4421 0006 / 4421 0007 / 4421 0008 / 4421 0009 / 4421 0010 / 4421 0011 / 4421 0012 / 4421 0013 / 4421 0014 / 4421 0015 / 4421 0016 / 4421 0017 / 4421 0018 / 4421 0019 / 4421 0020 / 4421 0021 / 4421 0022 / 4421 0023 / 4421 0024 / 4421 0025 / 4421 0026 / 4421 0027 / 4421 0028 / 4421 0029 / 4421 0030 / 4421 0031 / 4421 0032 / 4421 0033 / 4421 0034 / 4421 0035 / 4421 0036 / 4421 0037 / 4421 0038 / 4421 0039 / 4421 0040 / 4421 0041 / 4421 0042 / 4421 0043 / 4421 0044 / 4421 0045 / 4421 0046 / 4421 0047 / 4421 0048 / 4421 0049 / 4421 0050 / 4421 0051 / 4421 0052 / 4421 0053 / 4421 0054 / 4421 0055 / 4421 0056 / 4421 0057 / 4421 0058 / 4421 0059 / 4421 0060 / 4421 0061 / 4421 0062 / 4421 0063 / 4421 0064 / 4421 0065 / 4421 0066 / 4421 0067 / 4421 0068 / 4421 0069 / 4421 0070 / 4421 0071 / 4421 0072 / 4421 0073 / 4421 0074 / 4421 0075 / 4421 0076 / 4421 0077 / 4421 0078 / 4421 0079 / 4421 0080 / 4421 0081 / 4421 0082 / 4421 0083 / 4421 0084 / 4421 0085 / 4421 0086 / 4421 0087 / 4421 0088 / 4421 0089 / 4421 0090 / 4421 0091 / 4421 0092 / 4421 0093 / 4421 0094 / 4421 0095 / 4421 0096 / 4421 0097 / 4421 0098 / 4421 0099 / 4421 0100



ISO 9001, ISO 14001
OHSAS - 18001

विशाखपट्टणम पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

BY SPEED POST ACK.DUE

No.IM&EE/MECH/OHC-WQ1/ 3042

Dt. 05.2013.

31

To
M/s. Vadinar Oil Terminal Ltd.,
Equinox Business Park,
1st Floor, Tower - 2,
Off. Bandra Kurla Complex,
L.B.S. Marg, Kurla (W),
MUMBAI - 400 070.

FAX No.022-67082188

Sir,

Sub: Up-gradation of the existing facility and creation of new facility at
Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build,
Finance, Operate and Transfer (DBFOT) basis - Reg.
Ref: RFP Documents dated 28.03.2013.

* * * * *

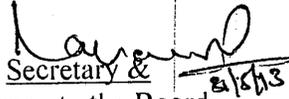
It is to inform that the RFP bid for the subject Project "Up-gradation of the
existing facility and creation of new facility at Visakhapatnam Port Trust, for Iron Ore
Handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis" submitted
vide your bid cited has been approved by the Board of Trustees, without prejudice to
the rights of VPT and subject to the outcome of the Writ Petition No.11343 of 2013,
pending in the Hon'ble High Court of Andhra Pradesh.

You are requested to treat this letter as the "Letter of Award (LOA)".

A detailed order along with Concession Agreement to be entered as per Clause
3.3.6 of RFP will be issued separately.

In compliance of Cl.3.3.5 of RFP the duplicate copy of this LOA, which is
enclosed herewith, shall be returned to the Authority duly signed by the Authorised
signatory within 7 (seven) days of the receipt of LOA in acknowledgement thereof.

Yours faithfully,


Secretary &
Attorney to the Board.

For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory


सचिव
SECRETARY



Date: 7 June 2013

To:
The Chief Mechanical Engineer
Visakhapatnam Port Trust
Mechanical & Electrical Engineering Department,
Visakhapatnam-530 035

Vadinar Oil Terminal Limited
Equinox Business Park
1st Floor, Tower - 2
Off Bandra Kurla Complex
L.B.S. Marg, Kurla (W)
Mumbai 400 070.
India

T +91 22 6733 5000
F +91 22 6708 2188
www.essar.com

Dear Sir,

Sub: Upgradation of the existing facility and creation of new facility at Visakhapatnam Port Trust for Iron Ore handling on DBFOT basis – Acceptance of Letter of Award (LOA)

We thank you for the Letter of Award No. IM&EE/MECH/OHC-WQ1/3042 dated 31.05.2013. We hereby accept the same, and are enclosing duplicate copy of the LOA duly signed by the Authorised signatory as token of our acceptance.

We look forward to receiving detailed order and draft Concession Agreement as mentioned in the LOA.

Thanking you

Yours faithfully

Authorised Signatory

Acc (M/Projects)
Please file it properly this is an important letter
[Signature]
13/6/2013

For ESSAR VIZAG TERMINALS LIMITED

[Signature]
Authorised Signatory

Vadinar Oil Terminal Limited

Registered Office Address : Essar Refinery Site, 39 KM Stone, Okha Highway (SH-25), Khambalia, Dist. Jamnagar, Gujarat - 361305

[Signature]
सचिव
SECRETARY
वा. &

वि.पो.ट. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशखपत्तनम/VISAKHAPATNAM



ISO 9001, ISO 14001
OHSAS - 18001

विशाखपट्टणम पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

BY SPEED POST ACK.DUE

No.IM&EE/MECH/OHC-WQ/ 3042
Dt. 31.05.2013.

To
M/s. Vadinar Oil Terminal Ltd.,
Equinox Business Park,
1st Floor, Tower - 2,
Off. Bandra Kurla Complex,
L.B.S. Marg, Kurla (W),
MUMBAI - 400 070.

FAX No.022-67082188

Sir,

Sub: Up-gradation of the existing facility and creation of new facility at
Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build,
Finance, Operate and Transfer (DBFOT) basis - Reg.
Ref: RFP Documents dated 28.03.2013.

* * * * *

It is to inform that the RFP bid for the subject Project "Up-gradation of the
existing facility and creation of new facility at Visakhapatnam Port Trust, for Iron Ore
Handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis" submitted
vide your bid cited has been approved by the Board of Trustees, without prejudice to
the rights of VPT and subject to the outcome of the Writ Petition No.11343 of 2013,
pending in the Hon'ble High Court of Andhra Pradesh.

You are requested to treat this letter as the "Letter of Award (LOA)".

A detailed order along with Concession Agreement to be entered as per Clause
3.3.6 of RFP will be issued separately.

In compliance of Cl.3.3.5 of RFP the duplicate copy of this LOA, which is
enclosed herewith, shall be returned to the Authority duly signed by the Authorised
signatory within 7 (seven) days of the receipt of LOA in acknowledgement thereof.

Accepted

For VADINAR OIL TERMINAL LIMITED

V. J. K. K. K.
Authorised Signatory

7-6-2013

For ESSAR VIZAG TERMINALS LIMITED

Authorised Signatory

G. G. G.
Authorised Signatory

Yours faithfully,

L. L. L.
Secretary &
Attorney to the Board.

L. L. L.
सचिव
SECRETARY

वा. &
वि.पो.ट्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम पोर्ट ट्रस्ट, विशाखपट्टणम - 530 035, फोन : 0891-2876000, फेक्स : (91) + 891-2565023, तार : 311813



Date: 28 June 2013

Vadinar Oil Terminal Limited
Equinox Business Park
1st Floor, Tower - 2
Off Bandra Kurla Complex
L.B.S. Marg, Kurla (W)
Mumbai 400 070.
India

To:
The Chief Mechanical Engineer
Visakhapatnam Port Trust
Mechanical & Electrical Engineering Department,
Visakhapatnam-530 035

T +91 22 6733 5000
F +91 22 6708 2188
www.essar.com

Dear Sir,

Sub: **Upgradation of the existing facility and creation of new facility at Visakhapatnam Port Trust for Iron Ore handling on DBFOT basis – Formation of SPV**

Further to your Letter of Award No. IM&EE/MECH/OHC-WQ1/3042 dated 31.05.2013, we are pleased to inform you that we have formed a Special Purpose Vehicle in the name and style of "ESSAR VIZAG TERMINALS LIMITED", for undertaking development and management of the captioned project. We are enclosing herewith the Memorandum and Articles of Association of the New Company and Certificate of Incorporation.

We now look forward to receiving detailed order and final draft Concession Agreement (with all necessary changes incorporated) as mentioned in the LOA. We are keen to sign the Concession Agreement at the earliest.

Thanking you

Yours faithfully

Authorised Signatory

[Handwritten signature]

For ESSAR VIZAG TERMINALS LIMITED

Authorised Signatory

Vadinar Oil Terminal Limited
Registered Office Address : Essar Refinery Site, 3rd Km Stone, Okhe Highway (SH-25), Khambalia, Dist. Jamnagar, Gujarat - 361506.

[Handwritten signature]
Secretary
वा. &
नि.पो.इ. मंडल का प्रतिनिधि
SECRETARY
वा. &
नि.पो.इ. मंडल का प्रतिनिधि
OFFICE OF THE VPT BOARD
विशाखपट्टणम / VISAKHAPATNAM

[Handwritten notes: for na ph, 01/07/13, EXB(MIS), 2013/07/01]

[Handwritten notes: ARE (M/P), Please endorse to Law section for the legal clearance of the same]

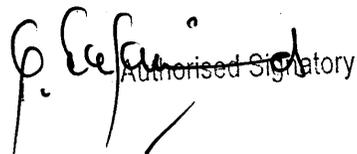
**MEMORANDUM
OF
ASSOCIATION
OF
ESSAR VIZAG TERMINALS LIMITED**

**/ CERTIFIED TRUE COPY /
FOR ESSAR VIZAG TERMINALS LIMITED**



DIRECTOR

For ESSAR VIZAG TERMINALS LIMITED



Authorized Signatory



सचिव

SECRETARY

वा. &

वि.पो.ट. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
वि.स.अ.पट्टणम / VISAKHAPATNAM



प्रारूप 1
पंजीकरण प्रमाण-पत्र

कॉर्पोरेट पहचान संख्या : U63030GJ2013PLC075687

2013 - 2014

मैं एतदद्वारा सत्यापित करता हूँ कि मैसर्स

ESSAR VIZAG TERMINALS LIMITED

का पंजीकरण, कम्पनी अधिनियम 1956 (1956 का 1) के अंतर्गत आज किया जाता है और यह कम्पनी लिमिटेड है।

यह निगमन-पत्र आज दिनांक उन्नीस जून दो हजार तेरह को अहमदाबाद में जारी किया जाता है।

Form 1
Certificate of Incorporation

Corporate Identity Number : U63030GJ2013PLC075687

2013 - 2014

I hereby certify that ESSAR VIZAG TERMINALS LIMITED is this day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the company is limited.

Given at Ahmedabad this Nineteenth day of June Two Thousand Thirteen.

Validity unknown
Digitally signed by P. Sambhaji Hajare Shyam
Date: 2013.06.19 10:03:26
DN: cn=P. Sambhaji Hajare Shyam

Registrar of Companies, Gujarat, Dadra and Nagar Havelli

कम्पनी रजिस्ट्रार, गुजरात, दादरा एवं नगर हवेली

*Note: The corresponding form has been approved by VILAS SAMBHAJI HAJARE, Assistant Registrar of Companies and this certificate has been digitally signed by the Registrar through a system generated digital signature under rule 5(2) of the Companies (Electronic Filing and Authentication of Documents) Rules, 2006. The digitally signed certificate can be verified at the Ministry website (www.mca.gov.in).

कम्पनी रजिस्ट्रार के कार्यालय अभिलेख में उपलब्ध पत्राचार का पता :

Mailing Address as per record available in Registrar of Companies office:

ESSAR VIZAG TERMINALS LIMITED

ESSAR HOUSE, OPP. GUJARAT COLLEGE, NEAR HOTEL INDER RESIDENCY,

ELLISBRIDGE,

AHMEDABAD - 380006,



Authorised Signatory

सचिव
SECRETARY

वा. &
वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम / VISAKHAPATNAM

MEMORANDUM OF ASSOCIATION
OF
ESSAR VIZAG TERMINALS LIMITED

- I. The name of the Company is **ESSAR VIZAG TERMINALS LIMITED**.
- II. The Registered Office of the Company will be situated in the State of Gujarat.
- III. The objects for which the Company is established are as under:

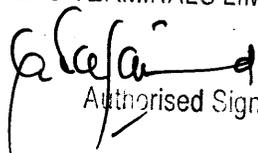
A. The MAIN OBJECTS to be pursued by the Company on its incorporation.

1. To design, develop, establish, build, lay, procure, relay, construct, equip, own, operate, use, administer, manage, maintain, improve, inspect, enlarge, alter, protect, extend, repair, replace, refurbish & carry out works in respect of the whole or part or parts of terminals, ports, jetties, storage tanks, warehouses, cranes, receipt & dispatch facilities, pumping stations, boosters, control stations, buildings, machinery, equipment & facilities ancillary to the construction, operation or use of the aforesaid or any of them globally.

B. OBJECTS INCIDENTAL OR ANCILLARY TO THE ATTAINMENT OF THE MAIN OBJECTS.

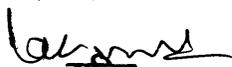
1. To lease out, extend, permit, allow the use of and operate the ports, terminals, jetties, storage tanks, warehouses, cranes, pumping stations, storage for transportation of and recover tariffs and other related equipments.
2. To carry on the business as service providers, advisers and/or consultants and organise and provide technical, financial, managerial, operation and maintenance, commercial and project management services to the ports, terminals, jetties and other related industries.
3. To create, construct, operate, provide, procure, dispose, distribute, install, repair, maintain, infrastructural facilities including facilities relating to energy, petroleum and petroleum products, water supply, transportation by rail, road, pipelines, single buoy mooring, mooring systems, staff housing, fire fighting, sewage systems, terminals, jetties and operating platforms, communication, service shops, mechanical, electrical, instrumentation and maintenance, storage and related facilities.
4. Be in the business of undertaking and implementing projects of various types like ports, jetties, terminals, pipelines for transportation of crude and finished products, airports, bridges, expressways, material handling systems, vehicles and equipment, mineral and ore processing plants, processing of industrial gases, air separation plant, transportation, storage and handling of mineral and petroleum products, liquefied petroleum gas, liquefied natural gas, natural gas, compressed natural gas, naphtha and other industrial gases and products on (a) Ownership basis, (b) Build, Own, Operate and Transfer (BOOT) basis, (c) Build, Own and Operate (BOO) basis, (d) Design, Finance, Build, Own, Operate and Transfer (DFBOOT) basis, (e) Build, Own and Transfer (BOT) basis or any other basis.

For ESSAR VIZAG TERMINALS LIMITED


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5. To employ ships, boats, tugs, vessels, trawlers, drifters and other transports and conveyances in the carriage or conveyance by land or sea in or between any place or places or port or ports or any seas, rivers, canals or elsewhere of passengers, mails, troops, munitions of war, live stock, corn and other produce and of treasure and merchandise and food, articles and goods and things between such ports and places in any part of the world as may seem expedient and to establish, maintain and work lines of steam and other ships and other transports and conveyances between any ports, countries or places, which may seem to the company, from time to time, expedient and to acquire any postal and other subsidies.
6. To carry on the business of consultants in all fields in which the Company is engaged and/or authorised to engage in, including dredging, dredger operation and management, dredging equipment design, marine, mechanical, electrical, civil metallurgical and electronic engineering, naval architecture, manufacture of ancillary items and equipment, land reclamation and associated works, harbour engineering, beach nourishment and shore protection, manufacture of dredgers salvage equipment and ancillaries therefor, planning, layout, repair, design or work necessary for execution of all the above works for the benefit of the Company itself or for an outside party with or without remuneration.
7. Generally to acquire by purchase, lease or otherwise, for the purposes of the Company any real or personal property, rights, or privileges, and in particular any land, buildings, rights of way, easements, licences, concessions, and privileges, patents, patent rights, machinery rolling stocks, plant, accessories and stock-in-trade.
8. To do the business on its own account or on account of the constituents, as buyers, sellers, importers, exporters, agents, dealers, or as collectors, manufacturers, of all or any of the goods and things in which the Company is authorised to deal.
9. To acquire from time to time and to deal in all such stock-in-trade, goods, chattel and effects as may be necessary or convenient for any business for the time being carried on by the Company.
10. To acquire or purchase any running concern carrying on the same or similar business, as covered by the object Clause A above.
11. To amalgamate with any company or companies having objects altogether or in part similar to those of this company or any other company, subject to the provisions of the Companies Act, 1956.
12. To enter into partnership or arrangement for sharing the profits or joint venture with any person, persons or company carrying on or about to carry on any business capable of being conducted so as directly or indirectly to benefit this Company and to acquire or join in acquiring any such business, as covered by the object clause A above.
13. To do any other business which may seem to the Company to be capable of being conveniently carried on in connection with the above or calculated directly to enhance the value of or render profitable any of the Company's property or rights.
14. To buy, purchase, lease, take on lease, exchange or otherwise acquire lands, buildings, flats and hereditaments of any tenure or description in India or elsewhere whether for residential, business or other purposes elsewhere whether for residential, business or other purposes and any rights, easements, advantages and privileges relating thereto and either for investment or resale or for trafficking in the same and to turn the same into account as may seem expedient, and to construct, alter, improve, decorate, develop, furnish and maintain offices, flats, houses, factories, warehouses, godowns, shops, buildings and other structures, works and conveniences of all kinds on any of the lands or immovable properties or acquired by the Company and to lease, sell, deal in or to otherwise dispose of the same.


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15. To build, construct, alter, maintain, pull down, remove or replace, and to work, manage and control any buildings, offices, factories, mills, shops, machinery, engines, roads, ways, tramways, branches of sidings, bridges, reservoirs, warehouses, wharves, electric works and other works and conveniences, which may seem calculated directly or indirectly to advance the interests of the Company to join with any other person or company in doing any of the aforesaid things.
16. Subject to the directions of Reserve Bank of India in this behalf to borrow or raise moneys or loans for the purpose of the Company by promissory notes, bills of exchange, hundies and other negotiable or transferable instruments or by mortgage, charge, hypothecation or pledge, or by debentures or by debenture stock, perpetual or otherwise, charged upon all or any of the Company's property and assets, both present and future moveable and immovable, including its uncalled capital, upon such terms as the Directors may deem expedient or in such other manner, or to take money on deposit or otherwise (merely for the purpose of financing the business of the Company) with or without allowance of interest thereon and to lend money to customers and others having dealings with the Company and to guarantee the performance of contract by any such persons and to execute all deeds, writings and assurances for any of the aforesaid purposes.
17. To establish laboratories for control of the quality of raw material, intermediates and finished products.
18. Provide, maintain and conduct, or otherwise subsidise research laboratories and experimental workshops for scientific and technical research and experiments; to undertake and carry on scientific and technical research, experiments and tests of all kinds; to promote studies and researches, both scientific and technical, investigations and inventions by providing, subsidising, endowing or assisting laboratories, workshops, libraries, lectures, meetings and conferences, and by providing or contributing to the remuneration of scientific or technical professors or teachers and by providing or contributing to the awards of scholarships, prizes, grants, to students or otherwise and generally to encourage, promote and reward studies, researches, investigations, experiments, tests, and inventions of any kind that may be considered likely to assist any business which the Company is authorised to carry on.
19. To apply for and acquire permits, licenses and quota rights from the Government of India or from State Governments or from foreign Governments to import and export plant, equipment, spare parts thereof, machinery, raw materials, intermediates, finished products and processing materials connected with the manufacturing and selling of the products of the Company.
20. To open current, fixed, overdraft or other accounts with any Bank, Bankers, Shroff, or Merchants and to pay into and to draw moneys from such accounts.
21. To invest the funds of the Company from time to time in such assets, properties, securities, shares, bullion, specie or investments or otherwise as may from time to time be determined by the Directors and from time to time sell or vary all such investments and to execute all assignments, transfers, receipts and documents that may be necessary in that behalf.
22. Upon any issue of shares, debentures or any other securities of the Company, to employ brokers, commission agents and underwriters, and to provide for the remuneration of such persons for their services by payment in cash or issue of shares, debentures or other securities of the Company, by the granting of options to take the same or in any other manner allowed by law.
23. To enter into partnership or into any arrangement for sharing profits, unions or interests or operations or joint ventures, reciprocal concessions or otherwise or collaborate with any person or Company, carrying on or engaged in, any business or

FOR PESSAR VZABOTERMINALS LIMITED

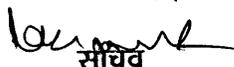
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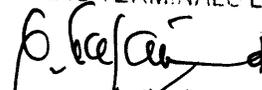
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transaction, either in India or abroad, which this Company is authorised to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the Company.

24. To act in conjunction with, unite or amalgamate with, create or constitute or assist in creating or constituting any other Company or Association of a kind similar wholly or partially to this Company for the purpose of acquiring all or any of the properties, rights and liabilities of the Company and to buy up or absorb all or any part of the business or property of any of such Company or Association and to acquire and secure membership, seat or privilege in and of any association, exchange, market or institution in India or any part of the world.
25. To enter into any arrangements with any government or authorities, municipal, local or otherwise, or any persons or company in India or abroad, that may seem conducive to the objects of the Company or any of them and to obtain from any such Government, authority, persons or company, any rights, privileges, charters, contracts, licences and concessions including in particular rights in respect of waters, water ways, power supply, road and highways, which the Company may think it desirable and to carry out, exercise and comply therewith.
26. To apply for and take out, purchase or otherwise by way of licence or otherwise any patents, patent rights of inventions Trade Mark rights, copy rights or secret process or technical aid or "knowhow" which may be useful for the Company's objects and to grant licences to use the same.
27. To act as Buying and Selling Agents of any Company, and to do and perform wholly or partly the several duties, services and offices which the Buying and Selling Agents of any Company usually do and perform and to undertake and to become bound by conditions of any agreement entered into for any purposes.
28. To alter, manage, develop, exchange, lease, mortgage, underlet, sell give in gifts or otherwise dispose of, improve or deal with the land, property, assets and rights and resources and undertaking of the Company or any part thereof for such considerations as the Company may think fit and in particular for shares, debentures, or securities of any other Company having objects altogether or in part similar to those of this Company and to distribute among the members in cash or in specie any property or assets of the Company, provided that no such distribution amounts to reduction of share capital except in accordance with the provisions of the Company Act in this behalf.
29. To pay all costs, charge and expenses incurred or sustained in or about the promotion and establishment of the Company or which the Company shall construe to be preliminary, including therein the costs of advertising, commission for underwriting, brokerage, printing and stationery and the expenses attendant upon the formation of agencies and local boards.
30. To procure the incorporation, registration, or other recognition of the Company in India, and to establish and regulate agencies for the purposes of the Company's business and to apply or join in applying to Government, Local, Municipal or other authority or body for concessions, order, rights or privileges that may seem conducive to the Company's objects or any of them and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interest.
31. To provide for welfare of the Directors or Ex-Directors or the employees or ex-employees of the Company, and the wives, widows and families of such persons, by building or by contributing to the building of houses, dwelling houses, chawls, or by grant of money, pensions, allowances, bonus or other payments or by creating and from time to time subscribing to gratuity and other funds and providing or subscribing towards schools, places of instruction and recreation and hospitals, dispensaries,


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medical and other assistance as the Company shall think fit, and to form, subscribe to or otherwise aid benevolent, religious, scientific, national, public or other institutions or objects or purposes.

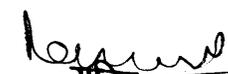
32. To sell, dispose of or transfer the business, property and undertaking of the company or any part thereof for any consideration which the Company may deem fit to accept and in particular for shares, debentures, debenture stock, bonds or securities or any other company or companies for the purpose of its or their acquiring all or any of the property, rights or liabilities of this Company or for any other purpose which may seem calculated to benefit this Company.
33. To create reserve fund, sinking fund, insurance fund, dividend equalisation fund or any other special fund whether for depreciation or for repairing, improving, extending or maintaining any of the property of the Company or for any other purposes conducive to the interest of the company.
34. To place, to reserve or to distribute as dividend or bonus among the members or otherwise to apply as the Company may from time to time think fit, any moneys received by way of premium on shares or debentures issued at a premium by the Company and any moneys received in respect of dividends accrued on forfeited shares and moneys arising from the sale by the Company of forfeited shares or from unclaimed dividends.
35. To do all or any of the things hereby authorised either along or in conjunction with or partnership with any person, firm or body corporate, or as factors, trustees or agents of any other Companies or persons on by or through any factors, trustees, or agents.
36. To do all and everything necessary, suitable or proper for the accomplishment of any of the purposes or the attainment of any of the objects or the furtherance of any of the powers herewith set forth, either along or in association with other corporate bodies, firms, or individual, and to do every other act or acts, things or things incidental or appurtenant to or growing out of or connected with the aforesaid business or powers or any part or parts thereof.
37. To acquire or purchase any running concern carrying on the same or similar business, as covered by the object Clause A above.
38. To carry on any other business which may seem to the Company to be capable of being conveniently carried on in connection with the above or calculated directly to enhance the value of or render profitable any of the Company's property or rights.

C. OTHER OBJECTS.

1. To search for, get, work, raise, make merchantable, sell and deal in iron, coal, ironstone, manganese, ferromanganese, magnesite, clay fire-clay, brick earth, bricks and other metals, minerals and substances, and to manufacture and sell briquettes and other fuel, and general to undertake and carry on any business, transaction or operation commonly undertaken or carried on by explorers, prospectors or concessionaires and to search for, win, work, get calcine; reduce, amalgamate, dress, define and prepare for the market any quartz and ore and mineral substances, and to buy, sell, manufacture and deal in minerals and other things capable of being used in connection with mining or metallurgical operations or required by the workmen and others employed by the Company.
2. To carry on the business of a waterworks Company in all its branches, and to sink wells and shafts, and to make, build and construct, lay down and maintain reservoirs, waterworks, cisterns, culverts, filterbeds, main and other pipes and appliances and to execute and do all other works and things necessary or convenient for obtaining, storing, selling, delivering, measuring, distributing and dealing in water.

For ESSAR VIZAG TERMINALS LIMITED

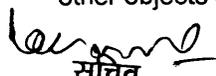

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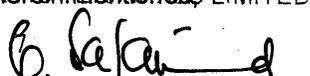

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3. To carry on business as timber merchants, sawmill proprietors and timber growers, and to buy, sell, grow, prepare for market, manipulate, import, export and deal in timber and wood of all kinds, and to manufacture and deal in articles of all kinds, in the manufacture of which timber or wood is used, and to buy, clear, plant and work timber estates.
4. To carry on business as manufacturers of chemicals and manures, distilled, dye makers, gas makers, metallurgists and mechanical engineers, ship owners and charterers, and carriers by land and sea, wharfingers, warehousemen, barge-owners, planters, farmers, and sugar merchants and so far as may be other business whether manufacturing or otherwise, which may seem to the Company capable of being conveniently carried on in connection with the above, or calculated directly or indirectly to enhance the value of or render profitable any of the Company's property or rights.
5. To construct, purchase, take on lease, or otherwise acquire, any roadways, tramways, or other ways, and to equip, maintain, work and develop the same by electricity, steam, oil, gas, petroleum, horse, or any other motive power, and to employ the same in the conveyance of passengers, merchandise and goods of every description, and to authorise the Government of India, or any Local Government or any Municipal or local authority, company, or persons, to use and work the same or any part thereof, and to lease or sell and dispose of the same or any part thereof.
6. To carry on any other business (whether industrial trading, manufacturing or otherwise) which may seem to the Company capable of being conveniently carried on in connection with any of the business, and the Company's objects calculated directly or indirectly to enhance the value of or render profitable any of the Company's properties or rights and also to acquire, promote, and foster, subsidise or acquire interest in any industry or undertaking.
7. To carry on the business of an investment Company or an Investment Trust Company and to undertake and to transact all kinds of trust and agency business. To carry on business as financiers and for the purpose to lend or invest money and negotiate loans in any form or manner, to draw, accept, endorse, discount, buy, sell, and deal in bills of exchange, hundies, promissory notes and other negotiable instruments and securities and also to issue on commission, to subscribe, or undertake, acquire and hold, sell, and exchange and deal in shares, stocks, bonds or debentures or securities of any Government or public authority or company, gold, silver, and bullion, and to form, promote, subsidise and assist companies syndicates and partnerships of all kinds to project, promote and to start industries and also to give any guarantee for payment of money or performance of any obligation or undertaking and to undertake and execute any trust and generally to carry on and undertake any business undertaking, transaction or operation commonly carried on or undertaken by promoters, financiers and underwriters, industrialists, but not to carry on the business of banking or insurance within the purview of the Banking Regulations Act, or the Insurance Act.
8. To carry on the business as merchants, traders, commission agents, brokers, adatis, or in any other capacity in India or elsewhere and to import, export buy, sell, barter, exchange, pledge, mortgage, advance upon or otherwise deal in goods, produce, articles and merchandise of and kind.
9. To carry on the business of generation and distribution of electric power for captive use.

And it is hereby declare that:

- (i) the objects incidental or ancillary to the attainment of main objects of the Company as aforesaid shall also be incidental or ancillary to the attainment of the other objects of the Company herein mentioned.


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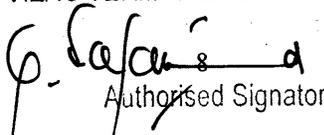
- (ii) the word "company" (save when used with reference to this Company) in this Memorandum shall be deemed to include any individual any partnership or other body or association of persons whether incorporated or not and wherever domiciled;
- (iii) the objects set forth in each of the several clauses of paragraph III shall have the widest possible construction and shall extend to any part of the world.

IV. The liability of the members is limited.

V. a) The Authorised Share Capital of the Company is Rs. 5,00,000/- (Rupees Five Lakhs only) divided into 50,000 (Fifty thousand) Equity Shares of Rs. 10/- (Rupees ten only) each with power to increase and reduce the capital of the Company and to divide the shares in the capital for the time being into several classes and attach thereto respectively such preferential, deferred, qualified or special rights, privileges or conditions as may be determined by or in accordance with the Articles of Association of the Company for the time being and to vary, modify or abrogate such rights, privileges or conditions in such manner as may be permitted by the Companies Act, 1956 or by the Articles of Association of the Company.

(b) The minimum paid up capital of the Company shall be Rs. 5,00,000/- (Rupees five lakhs only).

For ESSAR VIZAG TERMINALS LIMITED

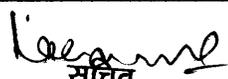

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ATTORNEY OF THE VPT BOARD
वि.पो.द्र. मंडल / VPT BOARD

We, the several persons whose names and address are subscribed hereunto, are desirous of being formed into a Company in pursuance of this Memorandum of Association and we respectively agree to take number of shares in the capital of the Company set opposite to our respective names:-

Name of Subscriber	Address, description and occupation of subscriber	No. of share taken by each subscriber	Signature of Subscriber	Signature of Witness and Their address Description And occupation
1. VADINAR OIL TERMINAL LIMITED (Through its authorised representative Mr. Manoj Contractor, S/o. Shri. Vinod Contractor vide Board resolution dated June 6, 2013)	Essar Refinery Site 39, K.M. Stone Okha Highway (SH-25) Khambalia Gujarat 361 305 (Company)	49,940 (Forty Nine Thousand Nine Hundred Forty)	For Vadinar Oil Terminal Limited Sd/- Manoj Contractor	
2. MANOJ CONTRACTOR (S/o. Shri. Vinod Contractor)	6A/503, Spring Leaf Lokhandwala, Kandivli (East) Mumbai 400 101 (Service)	10 (Ten)	Sd/- Manoj Contractor	I Witness to Serial No.1 to 7
3. MANOHAR NEMAYA KANNANGAR (S/o. Shri. Nemaya A. Puthran)	A-33, Rustomjee Royale CHS Limited J. S.Road Dahisar (West) Mumbai 400 068 (Service)	10 (Ten)	Sd/- Manohar Neyama Kannangar	Sd/- Habib Jan HABIB JAN S/o. Shri. Amir Jan Residing at Room No.104 1 st Floor, Saidham Apartments Plot No.97 Sector-14 Koparkhairane Navi Mumbai 400 709
4. GIRISH JOSHI (S/o. Shri. Madanmohan Joshi)	E-1601, Building No.2 Krishna Residency Opp. Dalmia College Sunder Nagar Malad (West) Mumbai 400 064 (Service)	10 (Ten)	Sd/- Girish Joshi	
5. MAYUR PATEL (S/o. Shri. Harshadkumar Patel)	B-201, Ganga CHS. Vasant Sagar Thakur Village Kandivali (East) Mumbai 400 101 (Service)	10 (Ten)	Sd/- Mayur Patel	Occupation Service Company Secretary Membership No.A22801
6. VIKRANT GARG (S/o. Shri. Virendra Kumar Garg)	B-306, Charkop Sea View CHS Ltd. Sector-8 Charkop Kandivali (West) Mumbai 400 067 (Service)	10 (Ten)	Sd/- Vikrant Garg	
7. S. RAMAN (S/o. Late Shri. V.R. Subramania Iyer)	C-305, N.G. Garden Bunder Pakhadi Road Kandivli (West) Mumbai 400 067 (Service)	10 (Ten)	Sd/- S. Raman	

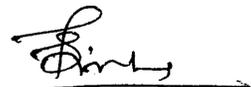
For ESSAR VIZAG TERMINALS LIMITED


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**ARTICLES
OF
ASSOCIATION
OF
ESSAR VIZAG TERMINALS LIMITED**

**/ CERTIFIED TRUE COPY /
FOR ESSAR VIZAG TERMINALS LIMITED**


DIRECTOR

For ESSAR VIZAG TERMINALS LIMITED


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ATTORNEY OF THE VPT BOARD
विशाखपट्टणम / VISAKHAPATNAM

UNDER THE COMPANIES ACT, 1956

ARTICLES OF ASSOCIATION

OF

ESSAR VIZAG TERMINALS LIMITED

I. PRELIMINARY

1. The regulation contained in Table A in Schedule 1 of the Companies Act 1956, shall not apply.

2. In these articles:

Unless the context otherwise requires:

- (i) The Company or this company means "ESSAR VIZAG TERMINALS LIMITED".
- (ii) The words or expressions contained in these Articles shall bear the same meaning as in the Act.
- (iii) "The Act" means the Companies Act, 1956 or any statutory modification thereof and section" shall mean a section of the said Act.
- (iv) "The Seal" means the common Seal of the Company.
- (v) "Office" means the registered office of the Company.
- (vi) "Board" means Board of Directors of the Company for the time being.
- (vii) "Director" means the Directors for the time being of the Company.
- (viii) "Depositories Act, 1996" shall include any statutory modification or re-enactment thereof
- (ix) "The Register" means the register of members to be kept Pursuant to the Act.

II. CAPITAL

3. a. The Authorised Share Capital of the Company shall be as per Clause V of the Memorandum of Association of the Company with power to issue with or without premium or to increase or reduce the same in accordance with the provisions of the Companies Act, 1956.
- b. The Paid-up share Capital of the Company shall be minimum of Rs. 5,00,000/- (Rupees five lakhs only).

III. SHARES

4. The shares shall be under the control of the Board who, subject to the provisions of the Act, may classify, allot or otherwise dispose of the same to such persons on such terms and conditions and either at a premium or at par or at a discount and at such terms as the Board thinks fit and with full power to call for the allotment of any share either at par or at a premium


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or at a discount and for such time and for such consideration as the Directors may think fit provided the option or right to call of shares shall not be given to any person except with the sanction of the Company in General Meeting.

IV. PAYMENT OF COMMISSION AND BROKERAGE

5. (1) The Company may exercise the power of paying commissions conferred by section 76, provided that the rate percent or the amount of the Commission paid or agreed to be paid shall be disclosed in the manner required by that section.
- (2) Subject to the provisions of section 76 of the Act, the rate of the commission shall not exceed the rate of five percent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to five percent of such price, as the case may be, and in case of debentures two and half percent of the price at which debentures are issued.
- (3) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or debentures or partly in one way and partly in the other.
- (4) The Company may also pay such brokerage as may be lawful on any issue of shares or debentures.

V. TRUSTS NOT RECOGNISED

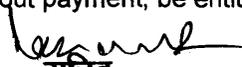
6. Except as required by Law, no person shall be recognised by the Company as holding any shares upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or except only as by these regulations or by Law otherwise provided any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

VI. MODIFICATION OF RIGHTS

7. (1) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of Sections 106 and 107 and whether or not the Company is being wound up, be varied with the consent in writing of the holders of three – fourth of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the share of that class.
 - (2) To every such separate meeting, the provisions of these Articles relating to general meetings shall mutatis mutandis apply but so that the necessary by proxy one third of the issued shares of the class in question.
8. The rights conferred up on the holders of the shares of any class issued with preferred or other rights shall not unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu herewith.

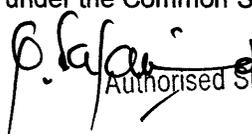
VII. SHARE CERTIFICATE

9. The certificate of title to shares shall be issued within three months after allotment (or within such other period as the conditions of the issue shall provide) or within one month after the application for the registration of transfer is received under the seal of the Company signed by two Directors and the Secretary or some other person appointed by the directors, subject to such rules and regulations as may be prescribed by Law from time to time.
10. (a) Every person whose name is entered as member in the Register of Member shall, without payment, be entitled to a Certificate under the Common Seal specifying the share


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or shares held by him and the amount paid there provided that in respect of a share or shares held jointly by several persons, the Company shall not be bound to issue more than one Certificate and the delivery of Certificate for the share to one of several joint holders shall be sufficient delivery to all.

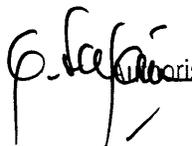
(b) In respect to any share or shares held jointly by several persons, the Company shall not be bound to issue more than one certificate and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

11. The certificate of share registered in the names of two or more personnel shall be delivered to the person first named in the register.
12. If any certificate be old, decrepit, worn-out, torn or defaced or where the cage on its reverse side for recording transfers have been duly utilised, then upon surrender thereof to the Company, the Board shall order the same to be cancelled and issue a new certificate in lieu thereof without any payment. If any certificate be lost or destroyed, then upon proof of such loss or destruction to the satisfaction of the Board and on such indemnity and payment of out of pocket expenses incurred by the Company in investigating evidence, as the Board think fit, a new certificate in lieu thereof shall be given to the person entitled to such lost or destroyed certificate on a fee of one rupee for each certificate or such smaller fee as the Board may determine.

Provided that no fee shall be charged for issue of new certificate in replacement of those which are old, decrepit or worn-out or where the cages on the reverse for recording transfers have been fully utilised.

VIII. CALLS

13. The Board may, from time to time, make such call on uniform basis, as it thinks fit, upon the members in respect of all moneys unpaid on the shares (whether on account of the nominal value of the shares or by way of premium) held by them and not by conditions of allotments thereof made payable at fixed time and each such member shall pay the amount of every call so made on him to the person and at the time and place appointed by the Board. A call may be made payable by instalments.
14. The joint holders of shares shall severally as well as jointly be liable for the payment of all instalments and calls due in respect of such shares.
15. (1) A call shall be deemed to have been made at the time when the resolution of the Board authorising such call was passed unless the same is expressly made effective on any other date under such resolution.
(2) Not less than 14 days notice of any call shall be given specifying the place and time of payment and to whom such call shall be paid; provided that the Board may, subject to section 91 of the Act, by notice in writing of a member, revoke the call or extend the time for payment thereof.
16. If by the terms of issue of any share or otherwise any amount is made payable at any fixed time or by instalments at fixed times, whether on account or the amount of the share or by way of premium, every such amount of instalment shall be payable as if it were a call duly made by the Board and of which due notice had been given and all provisions herein contained in respect of calls for future or otherwise, shall relate to such amount or instalment accordingly.
17. If the sum payable in respect of any call or instalment be not paid on or before the day appointed for payment thereof the holder for the time being of the shares in respect of which the call shall have been made or the instalment shall be due, shall pay interest for the same at the rate of 9 (nine) per cent per annum (or at such other rate as the Board may determine) from the day appointed for the payment thereof to the time of actual payment but the Board shall be at liberty to waive payment of the interest wholly or in part.


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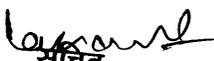

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18. The Board may receive from any member willing to advance the same, all or any part of the moneys due upon the shares held by him beyond the sums actually called for and upon the money so paid in advance, or so much thereof, as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made and the Company may pay interest at such rate not exceeding nine (9) per cent per annum or as the member paying such sum in advance and the Director agree upon. Money so paid in excess of the amount of calls shall not rank for dividends, or participate in profits. Money so paid in excess of the amount of calls until appropriated towards satisfaction of any call shall be treated as advance to the Company and not a part of capital and shall be repayable at any time if the Directors so decide.
19. The Board may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him and also appropriate the same, in such a manner as the Board may deem fit, towards unpaid portion of the share capital, whether or not a call thereon has been made.

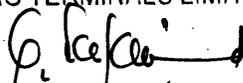
IX. FORFEITURE

20. If any member fails to pay the whole or any part of any call, or instalment or any money due in respect of any shares either by way of principal or interest on or before the day appointed for the payment of the same the Directors may at any time thereafter during such time as the call or instalment or other money remains unpaid serve a notice on such member or on the persons (if any) entitled to the share by transmission, requiring him to pay the same together with any interest that may have accrued and all the expenses that may have been incurred by the company by reason of such non-payment. The joint holders of a share shall severally as well as jointly be liable for the payment of all installments and call due in respect of such shares.
21. The notice shall name a day (not being less than 14 days from the date of notice) and a place on and at which such call or instalment and such interest and expenses as aforesaid are to be paid. The notice shall also state that in the event of nonpayment at or before the time and at the place appointed, the share in respect of which such call was made or instalment is payable will be liable to be forfeited.
22. If the requirements of any such notice as aforesaid are not complied with, any shares in respect of which such notice has been given may at any time thereafter, before payment of call or instalment, interest and expenses due in respect thereof, be forfeited by a resolution of the Board to that effect and the forfeiture shall be recorded in the Directors Minute Book, such forfeiture, shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
23. When any shares shall have been so forfeited notice of the resolution shall be given to the member in whose name it stood immediately prior to the forfeiture and entry of the forfeiture with date thereof shall forthwith be made in the register of the members.
24. Any share so forfeited shall be deemed to be the property of the Company and the Directors may sell, reallocate or otherwise dispose of the same in such a manner as they think fit. The Board may at any time before any share so forfeited shall have been sold, reallocated or otherwise disposed of, annul the forfeiture thereof upon such conditions as it thinks fit.
25. Any member whose shares have been forfeited shall cease to be a member of the Company in respect of the forfeited shares, but shall notwithstanding the forfeiture remain liable to pay to the Company all calls, instalments, interests and expenses owing upon or in respect of such shares at the date of the forfeiture, together with interest thereon from the time of forfeiture until payment at the rate of nine (9) per cent per annum and the Directors may enforce the payment thereof, if they think fit.
26. The forfeiture of a share shall involve the extinction of all interest in and also of all claims and demands against the Company in respect of the shares, and all other rights incidental to the shares, except only such of those rights as by the Articles are expressly saved.

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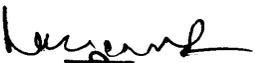

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delivered to the Company together with the certificate or if no such certificate is in existence, the Letter of Allotment of the Shares. The instrument of transfer of any shares in or debentures of the Company, shall specify the name, father's/husband's name, address, occupation, nationality of the transferee. The transferor shall be deemed to remain the holder of such shares until the name of the transferee is entered in the Register of Members. Each signature to such transfer shall be duly attested by the signature of one witness who shall add his address and occupation.

35. Application for the registration of the transfer of shares may be made either by the transferor or the transferee, where such application is made by the transferor and relates to a partly paid share, no registration shall be effected unless the Company gives notice of the application to the transferee, in the manner prescribed by Section 110 of the Act. Subject to the provisions of Articles hereof, if the transferee makes no objection within two weeks from the date of receipt of the notice, the Company shall enter in the register of member, the name of the transferee in the same manner and subject to the same conditions as if the application for registration was made by the transferee.
36. Before registering any transfer tendered for registration the Company may, if it thinks fit, give notice by letter posted in the ordinary course to the registered holder, that such transfer deed has been lodged and that unless objection is made the transfer will be registered and, if such registered holder fails to lodge an objection in writing at the office of the company within ten days from the posting of such notice to him he shall be deemed to have admitted the validity of the said transfer. Where no notice is received by the registered holder the Company shall be deemed to have decided not to give notice and in any event the non-receipt by the registered holder of any notice shall not entitle him to make any claim of any kind against the Company or the Board in respect of such non-receipt.
37. Neither the Company nor its Board shall incur any liability for registering or effecting a transfer of shares apparently made by competent parties although the same may, by reason of any fraud or other cause not known to the company or its Board, be legally inoperative or insufficient to pass the property in the shares or debentures proposed or professed to be transferred; and although the transfer was as between the transferor and transferee, be liable to be set aside and notwithstanding that the Company may have notice that such instrument of transfer was signed or executed and delivered by the transferor in blank as to the name of the transferee or the particular of the shares transferred or otherwise in defective manner. In every such case, the person registered as transferee, his executors, administrators or assigns alone shall be entitled to be recognised as the holder of such share or debentures and the previous holder of such share or debentures shall, so far as the Company is concerned, be deemed to have transferred his sole title thereto.
38. No transfer shall be made to a minor or person of unsound mind.
39. Every instrument of transfer shall be left at the office for registration, accompanied by the certificate of the shares or if no such certificate is in existence, by the letter of Allotment of the shares to be transferred and such other evidence as the Board may require to prove the title of the transferor or his right to transfer the shares, and upon payment of the proper fee to the company, the transferee shall (subject to the right of the Board to decline to register hereinafter mentioned) be registered as a member in respect of such shares. The Board may waive the production of any certificate upon evidence satisfactory to it of its loss or destruction.
40. All instruments of transfer, which shall be registered, shall be retained by the Company, but any instrument of transfer, which the Board may decline to register, shall be returned to the person depositing the same.
41. (a) The Company shall keep a book to be called the Register of Transfers wherein shall be entered particulars of every transfer or transmission of any shares and other particulars of shares required by the Act to be entered in such Register.


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(b) The Transfer Book and Register of Members may be closed during such time as the Board may think fit not exceeding in the whole forty five days in each year, but not exceeding thirty days at a time after giving not less than seven days previous notice.

42. The Board may decline to recognise any instrument of transfer if:

(a) The instrument of transfer is not accompanied by the instrument of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor;

(b) The instrument of transfer is in respect of more than one class of shares; or

(c) It is for transfer of any partly paid share or any share on which the Company has lien.

Provided that registration of a transfer shall not be refused on the ground of the transferor being either alone or jointly with any other person or persons indebted to the company on any account whatsoever except a lien on shares.

43. The registration of transfers may be suspended after giving due notice at such times and for such periods as the Board may from time to time determine.

Provided that such registration shall not be suspended for more than forty-five days in any year, and not exceeding thirty days at any one time.

44. The instrument of transfer shall be in writing and all the provisions of Section 108 of the Act and or any statutory modifications thereof for the time being shall be duly complied with in respect of all transfers of shares and registration thereof.

45. In the case of transfer of shares or other marketable securities where the Company has not issued any certificate and where such shares or securities are being held in an electronic and fungible form, the provisions of the Depositories Act, 1996 shall apply.

XII. TRANSMISSION

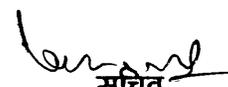
46. The executors or administrators or the holder of a succession certificate in respect of shares of a deceased member (not being one of several joint-holders) shall be the only persons whom the company shall recognise as having any title to the shares registered in the name of such member and, in case of the death of any one or more of the joint-holder of any registered shares, the survivors shall be the only persons recognised by the Company as having any title to or interest in such shares, but nothing herein contained shall be taken to, release the estate of a deceased joint holder from any liability on shares held by him jointly with any other person. Before recognising any executor or administrator or legal heir the Board may require him to obtain a grant of probate or letter of administration or succession certificate or other legal representation as the case may be, from a competent Court;

Provided nevertheless that in any case where the Board in its absolute discretion thinks fit it may dispense with production of probate or letters of administration or a succession certificate or such other legal representation upon terms as to indemnity the Company or otherwise as the Board may consider desirable.

Provided also that the holder of a succession certificate shall not be entitled to receive any dividends already declared but not paid to the deceased member unless the succession certificate declares that the holder thereof is entitled to receive such dividends.

47. Any person becoming entitled to a share in consequence of the death, lunacy or insolvency of a member may, upon producing such evidence of his title as the Board thinks sufficient, be registered as member in respect of such shares; or may, subject to the regulations as to transfer herein before contained, transfer such shares.


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48. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.

Provided that the Board may, at any time, give notice requiring any such person to elect, either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share, until the requirements of the notice have been complied with.

49. If the person so becoming entitled to shares under preceding articles shall elect to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect, transfer the shares to some other person he shall execute an instrument of transfer in accordance with the provisions of these Articles relating to the transfer of shares. All the limitations, restrictions and provisions of these Articles relating to the right of transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid.
50. The Articles providing for the transfer and transmission of shares, shall mutatis mutandis apply to the transfer and transmission of debentures of the Company.

XIII. ALTERATION IN CAPITAL

51. The Company in General Meeting may:

- (a) Increase its authorised share capital by such amount as it thinks expedient by creating new shares.
- (b) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares.
- (c) Cancel any shares which, at the date of the passing of the resolution have not been taken or agreed to be taken by any person, and diminish the amount of its capital by the amount of the shares so cancelled.
- (d) Subdivide its shares, or any of them into shares of smaller amount, than is fixed by the Memorandum of Association subject to the provisions of Section 94 (1) (d) of the Act.
- (e) Reduce its capital in any manner authorised by Section 100 of the Act.

The powers conferred by this Article may be exercised by an ordinary resolution, except in the case of reduction of capital when the exercise of the power in the behalf shall be by a special resolution. The company shall give due notice to the Registrar of any such alternation in capital.

XIV. STOCKS

52. The Company in the General Meeting may convert any paid up shares into stock and reconvert any stock into paid up shares of any denominations.
53. When any shares have been converted into stock the several holders of such stock may, henceforth their respective interests therein or any part of such interests in the same manner, and subject to the same regulations, as would have applied to the transfer of shares from which the stock arose or as near thereto as circumstances would admit. The Board may, from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

54. The holders of stocks shall, according to the amount of the stock held by them, have the


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same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters, as if they held the shares from which the stock arose, but no such privileges or advantages (except participation in the dividend and profits of the Company) shall be conferred by any such part of stock as would not, if existing in shares, have conferred that privilege or advantage.

55. Such of the Articles of the company (other than those relating to share warrants), as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "Stock" and "Stockholder" respectively.

XV. SHARE WARRANTS

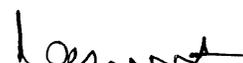
56. The Company may issue share warrants subject to, and in accordance with the provisions of Sections 114 and 115, and accordingly the Board may in its discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) of the share, and the amount of the stamp duty on the warrant and such fee as the Board may from time to time require, issue a share warrant.
57. (1) The bearer of a share warrant may, at any time deposit the warrant at the office of the Company, and so long as the warrant remains so deposited, the depositor shall have the same right of signing a requisition for calling a meeting of the Company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiry of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant.
- (2) Not more than one person shall be recognised as depositor of the share warrant.
- (3) The Company shall, on two days written notice, return the deposited share warrant to the depositor.
58. (1) Subject as herein otherwise expressly provided, no person shall, as bearer of a share warrant sign a requisition for calling a meeting of the Company, or attend or vote or exercise any other privilege of member at a meeting of the Company, or be entitled to receive any notice from the Company.
- (2) The bearer of share warrant shall be entitled in all other respects to the same privilege and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the Company.
59. The Board may, from time to time, make rules as to the terms on which (if it shall think fit), a new share warrant or coupon may be issued by way of renewal in case of defacement, loss or destruction.

XVI. GENERAL MEETINGS

60. (1) The Company shall hold statutory meeting and annual general meetings as provided under Sections 165 and 166 of the Act.
- (2) All general meetings other than annual general meetings shall be called extra-ordinary general meetings.
61. (1) The Board may, whenever it thinks fit, call an extraordinary general meeting.
- (2) If at any time there are not within India Directors capable of acting who are sufficient in number to form a quorum, any Director of the Company may call an extraordinary general meeting in the same manner, or as nearly as possible, as that in which as nearly as possible, as that in which such a meeting may be called by the Board.

XVII. PROCEEDINGS AT GENERAL MEETINGS For ESSAR VIZAG TERMINALS LIMITED


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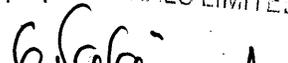
62. (1) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (2) Save as herein otherwise provided, five members present in person shall be a quorum.
63. The Chairman, if any, of the Board shall preside as Chairman at every general meeting of the Company.
64. If there is no such Chairman, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairman of the meeting, the Directors present shall elect one of the number to be the Chairman of the meeting.
65. If at any meeting no Director is willing to act as Chairman or if no Director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be the Chairman of the meeting.
66. (1) The Chairman may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (2) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (3) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (4) Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
67. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place, or at which the poll is demanded shall be entitled to a second or casting vote.
68. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

XVIII. VOTES OF MEMBERS

69. Subject to any rights or restriction for the time being attached to any class or classes of shares:
- (a) on a show of hand, every member present in person shall have, one vote; and
- (b) on a poll, the voting rights of members shall be as laid down in Section 87.
70. In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted in the exclusion of the votes of the other joint holders.
- For this purpose, seniority shall be determined by the order in which the names stand in the register of members.
71. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may on a poll vote by Proxy.
72. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
73. (1) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.


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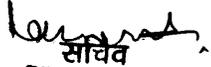
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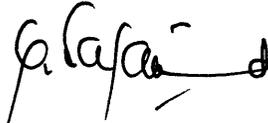

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- (a) in attending and returning from meetings of the Board of Directors or any committee thereof or general meeting of the Company;
- (b) in connection with the business of the Company.
81. The Board may pay all expenses incurred in registering the Company.
82. The Company may exercise the powers conferred on it by Sections 157 and 158 with regard to the keeping of a foreign register and the Board may (subject to the provisions of those Sections) make and vary such regulations as it may think fit respecting the keeping of any such register.
83. All cheques, promissory notes, drafts, hundies, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by the Managing Director or by such person and in such manner as the Company in General Meeting or the Board shall from time to time by resolution determine.
84. Every Director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for the purpose.
85. (1) The Board shall have power at any time, and from time to time to appoint a person as an additional Director, provided the number of the Directors and Additional Directors together shall not at any time exceed the maximum strength, fixed for the Board by the Articles.
- (2) Such person shall hold office only up to the date of the next annual general meeting of the company, but shall be eligible for appointment by the Company as a Director at that meeting subject to the provisions of the Act.
86. Any Director who submits his resignation from the Directorship in writing shall be deemed to have vacated his office immediately from the date of his letter of resignation.
87. (1) The Board of Directors shall also have power to fill a casual vacancy in the Board. Any Director so appointed shall hold office only so long as the vacating Director would have held the same if no vacancy had occurred.
- (2) The Board may appoint any person to act as an alternate Director for a Director during the latter's absence for a period of not less than three months from the State in which meetings of the Board are ordinarily held and such appointment shall have effect and such appointee, whilst he holds office as an alternate Director, shall be entitled to notice of meeting and to attend and vote thereat accordingly; but he shall "ipso facto" vacate office, if and when the absent Director returns to the State in which meetings of the Board are ordinarily held or the absent Director vacates office as a Director.
88. If it is provided by any agreement, deed or other documents securing or otherwise in connection with any loan taken by the Company or in connection with taking of any shares by any person, that any such person or persons shall have power to nominate a Director on the Board of Directors of the Company then and in case of taking of any such loan or shares or entering into such agreement the person or persons having such power may exercise his power from time to time and appoint a Director accordingly. Such Director may be removed from Office at any time by the person or persons in whom the power under which he was appointed is vested and another Director may be appointed in his place but while holding such office he shall not be liable to retire by rotation nor hold any qualification shares.

XX. PROCEEDINGS OF BOARD

89. (1) The Board of Directors may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit, subject to the provisions of Section 285 of the Act.


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- (2) A Director may, and Manager or Secretary on the requisition of a Director shall at any time, summon a Meeting of the Board.
90. (1) Save as otherwise expressly provided in the Act and this Article questions arising at any meeting of the Board shall be decided by majority of vote.
- (2) In case of an equity of votes, the Chairman of the meeting shall have a second or casting vote.
91. The continuing Directors may act notwithstanding any vacancy in the Board, but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that fixed for the quorum or of summoning a general meeting of the Company, but for no other purpose.
92. (1) The Board may elect a Chairman of its meeting and determine the period for which he is to hold office.
- (2) If no such Chairman is elected, or if at any meeting, the Chairman is not present within five minutes after the time appointed for holding the meetings, the directors present may choose one of their number as the Chairman of the meeting.
- (3) The Chairman of the Board shall have no second or a casting vote.
93. (1) The Board may subject to the provisions of the Act delegate any of its powers to a committee consisting of such member or members of its body as it thinks fit.
- (2) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.
94. (1) A committee may elect a Chairman of its meetings.
- (2) If no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be the Chairman of the meeting.
95. (1) A committee may meet and adjourn, as it thinks proper.
- (2) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairman shall have a second or casting vote.
96. All acts done by any meeting of the Board or of a committee thereof by any person acting as a Director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such Director or such person had been duly appointed and was qualified to be a Director.
97. Save as otherwise expressly provided in the Act, a resolution in writing, signed by the members of the Board or of a committee thereof, in accordance with the provisions of Section 289, shall be as valid and effectual as if it had been passed at a meeting of the Board or committee, duly convened and held.

XXI. POWERS OF DIRECTORS

98. Subject to the provisions of the act the control of the Company shall be vested in the Board who shall be entitled to exercise all such powers, and to do all such acts and things as the Company is authorised to exercise and do; provided that the Board shall not exercise any power or do any act or thing which it directed or required, whether by the Act or any other Statute or by the Memorandum of the Company or by these Articles or otherwise, to be done by the Company in General Meeting.

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 Authorised Signatory

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 SECRETARY
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Provided further that in exercising any such power or doing any such act or thing, the Board shall be subject to the provisions in that behalf contained in the Act or any other Statute or in the Memorandum of the Company or in these Articles, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the Company in General Meeting and no such regulation shall invalidate any prior act of the Board which would have been valid if that, regulation had not been made.

99. Subject to and in accordance with the provisions of the Act, the Board shall retain and employ such staff as may be necessary for carrying on the business of the Company. The salary or other remuneration of such staff shall be defrayed by the Company, and all or any of such staff be engaged exclusively for the Company or jointly with other concerns.

XXII. BORROWING POWERS

100. (1) The Board may from time to time at its discretion, subject to the provisions of the Act, raise or borrow, either from the Directors or from elsewhere and secure the payment of any sum or sums of money for the purposes of the Company.

- (2) The Board may raise or secure the repayment of such sum, or sums in such manner and upon such terms and conditions in all respects as it thinks fit, and in particular, by the issue of bonds perpetual or redeemable debentures or debenture-stock, or any mortgage, charge of other security on the undertaking or the whole or any part of the property of the Company (both present and future), including its uncalled capital for the time being.

101. If any uncalled capital of the Company is included in or charged by any mortgage or other security, the Board may by instrument under the Company's seal authorise the person in whose favour such mortgage or security is executed or any other person in trust for him to collect money in respect of calls made by the Board on members in respect of such uncalled capital and the provisions herein before contained in regard to call shall mutatis mutandis apply to calls made under such authority; and such authority may be made exercisable either conditionally or unconditionally, either presently or contingently and either to the exclusion of the Directors power or otherwise and shall be assignable if expressed so to be.

102. Debentures, bonds and other securities may be made assignable, free from any equities, between the Company and the persons to whom the same may be issued.

103. Subject to the provisions of the Act any debenture, bonds or other securities may be issued by the Company at a discount, premium or otherwise, with any special privileges as to redemption, surrender, drawings, allotment of shares, appointment of Directors or otherwise Debentures and bonds with right to allotment of or conversion into shares shall not be issued except with the sanction of the Company in general meeting and compliance of the provisions of the Act.

XXIII. MANAGING DIRECTOR, MANAGER OR SECRETARY, ETC.

104. The Board of Directors may appoint any one or more of them as the Managing Director and/or Whole Time Director on such remuneration, terms and conditions as the Board may deem fit and proper provided however that, the remuneration shall be subject to such conditions and restrictions as may be prescribed by the Act. The Managing Director or a Whole Time Director shall not be liable to retire by rotation.

105. Subject to the provisions of the Act, the Manager or Secretary may be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit, and any Manager or Secretary so appointed may be removed by the Board.

106. Subject to the provision of Section 269 and 314 of the Act a Director may be appointed as Manager or Secretary.

For ESSAR VIZAG TERMINALS LIMITED


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Authorised Signatory

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ATTORNEY OF

107.A provision of the Act or these Articles requiring or authorising a thing to be done by a Director and the Manager or Secretary shall not be satisfied by its being done by the same person acting both as Director and as, or in place of the Manager or Secretary.

XXIV. THE SEAL

- 108.(1) The Board of Directors shall provide a Common Seal for the purpose of the Company and shall have power from time to time to destroy the same and substitute a new Seal in lieu thereof.
- (2) The Board shall provide for the safe custody of the Seal.
- (3) The Seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a Committee of the Board authorised by it in that behalf, and except in the presence of at least one Director or Secretary or such other person as the Board may appoint for the purpose; and the Director or Secretary or other person aforesaid shall sign on every instrument to which the seal of the Company is so affixed in his presence, subject to the provisions of Articles 10 hereof, in respect of share certificates.
- (4) The Company may exercise the powers conferred by Section 50 with regard to having an official Seal for use abroad, and such powers shall be vested in the Board.

XXV. DIVIDENDS AND RESERVES

- 109.The Company in annual general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.
- 110.The Board may from time to time pay to the members such Interim Dividends as appear to it to be justified by the profits of the Company.
- 111.(1) Subject to the provision of the Act, the Board may, before recommending any dividend, set aside out of the profits of Company such sums as it thinks proper as a reserve or reserves which shall, at the discretion to the Board, be applicable for any purpose to which the profits of the Company be properly applied, including provisions for meeting contingencies or for equalising dividends; and pending such application, may, at like discretion, either be employed in the business of the Company or be invested in such investments (other than shares in the Company) as the Board may, from time to time think fit.
- (2) The Board may also carry forward any profits, which it may think prudent not to divide, without setting them aside as a reserve.
- 112.(1) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the Company, dividends may be declared and paid according to the nominal amounts of the shares.
- (2) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this Article as paid on the share.
- (3) Unless otherwise decided by the Board all dividends shall, be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank of dividend accordingly.
113. The Board may deduct from any dividend payable to any members all sums of money, if any, presently payable by him to the Company on account of calls or otherwise in relation to the shares in the Company.

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114.No unclaimed dividend shall be forfeited by the Board and all dividends remaining unpaid shall be dealt with in the manner as provided under Section 205A of the Companies Act, 1956.

115.(1) Any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct.

(2) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

116.Any one of two or more joint holders of a share may give effectual receipts for any dividends, bonuses or other moneys payable in respect of such share.

117.Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.

118.No dividend shall bear interest against the Company except as provided under Law.

XXVI. ACCOUNTS

119.(1) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the Company, or any of them, shall be open to the inspection of member not being Directors.

(2) No member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by Law or authorised by the Board or by the Company in general meeting.

XXVII. CAPITALISATION OF PROFITS

120.(1) The Company in general meeting may, upon the recommendation of the Board, resolve:

(a) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and

(b) that such sum be accordingly set free for distribution in the manner specified in clause (2) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.

(2) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (3), either in or towards:

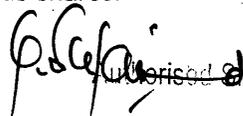
(i) Paying up any amounts for the time being unpaid on any shares held by such members respectively.

(ii) Paying up in full, unissued shares of the Company to be allotted and distributed, credited as fully paid up, to and amongst such members in the proportions aforesaid; or

(iii) Partly in the way specified in sub-clause (i) and partly in that specified in sub-clause (ii).

(3) A share premium account and a capital redemption reserve fund may, for the purposes of these Articles be applied only for the purpose of issuing unissued shares to be issued to members of the Company as fully paid bonus shares.


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(4) The Board shall give effect to the resolution passed by the Company in pursuance of these Articles.

121.(1) Whenever such a resolution as aforesaid shall have been passed, the Board shall:

- (a) Make all appropriations and application of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares; and
- (b) generally do all acts and things required to give effect thereto.

(2) The Board shall have full power:

- (a) to make such provision, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, in the case of shares becoming distributable in fractions; and also
 - (b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the Company providing for the allotment to them respectively credited as fully paid up, of any further shares to which they may be entitled upon such capitalisation, or (as the case may require) for the payment by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amount remaining unpaid on their existing shares.
- (3) Any agreement made under such authority shall be effective and binding on all such members.

XXVIII. WINDING UP

122.(1) If the Company shall be wound up, the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the act, divide amongst the members, in specie or kind, the whole or any part of the assets of the Company, whether they shall consist of property of the same kind or not.

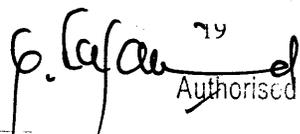
- (2) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.
- (3) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

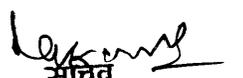
XXIX. MEMBERS

123. Every person who is a subscriber to the Memorandum and Articles and/or who intends to be or becomes a member of the Company shall, subject to the provisions of any law in force be bound by the provisions of the Memorandum and Articles of the Company and any matter of dispute arising between the Company and any such person as regards mutual rights, obligations or otherwise shall be subject to the jurisdiction of the Court having jurisdiction over the Registered Office of the Company in respect to the disputed matter.

XXX. INDEMNITY

124. Subject to the provisions of Section 201 every officer or agent for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under Section 240 in which he is entitled to be granted to him by the Court.

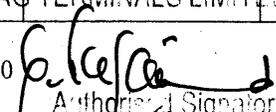

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We, the several persons whose names and address are subscribed hereunto, are desirous of being formed into a Company in pursuance of these Articles of Association

Name of Subscriber	Address, description and occupation of subscriber	Signature of Subscriber	Signature of Witness and Their address Description And occupation
1. VADINAR OIL TERMINAL LIMITED (Through its authorised representative Mr. Manoj Contractor, S/o. Shri. Vinod Contractor vide Board resolution dated June 6, 2013)	Essar Refinery Site 39, K.M. Stone Okha Highway (SH-25) Khambalia Gujarat 361 305 (Company)	For Vadinar Oil Terminal Limited Sd/- Manoj Contractor	
2. MANOJ CONTRACTOR (S/o. Shri. Vinod Contractor)	6A/503, Spring Leaf Lokhandwala, Kandivli (East) Mumbai 400 101 (Service)	Sd/- Manoj Contractor	I Witness to Serial No.1 to 7 Sd/- Habib Jan HABIB JAN S/o. Shri. Amir Jan Residing at Room No.104 1 st Floor, Saidham Apartments Plot No.97 Sector-14 Koparkhairane Navi Mumbai 400 709 Occupation : Service Company Secretary Membership No.A22801
3. MANOHAR NEMAYA KANNANGAR (S/o. Shri. Nemaya A. Puthran)	A-33, Rustomjee Royale CHS Limited J. S.Road Dahisar (West) Mumbai 400 068 (Service)	Sd/- Manohar Neyama Kannangar	
4. GIRISH JOSHI (S/o. Shri. Madanmohan Joshi)	E-1601, Building No.2 Krishna Residency Opp. Dalmia College Sunder Nagar Malad (West) Mumbai 400 064 (Service)	Sd/- Girish Joshi	
5. MAYUR PATEL (S/o. Shri. Harshadkumar Patel)	B-201, Ganga CHS. Vasant Sagar Thakur Village Kandivali (East) Mumbai 400 101 (Service)	Sd/- Mayur Patel	
6. VIKRANT GARG (S/o. Shri. Virendra Kumar Garg)	B-306, Charkop Sea View CHS Ltd. Sector-8 Charkop Kandivali (West) Mumbai 400 067 (Service)	Sd/- Vikrant Garg	
7. S. RAMAN (S/o. Late Shri. V.R. Subramania Iyer)	C-305, N.G. Garden Bunder Pakhadi Road Kandivli (West) Mumbai 400 067 (Service)	Sd/- S. Raman	
For ESSAR VIZAG TERMINALS LIMITED			


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ESSAR
PORTS

Vadinar Oil Terminal Limited
Equinox Business Park
1st Floor, Tower - 2
Off Baniya Kunta Complex
L.B.S. Marg, Kunta(VI)
Mumbai 400070
India

T +91 22 57 33 8100
F +91 22 6703 2165
WWW.ESSARPORTS.COM

Date: 11 July 2013

To:
The Chief Mechanical Engineer,
Visakhapatnam Port Trust,
Mechanical & Electrical Engineering Department,
Visakhapatnam – 530 035

Dear Sir,

Sub: **Upgradation of the existing facility and creation of new facility at
Visakhapatnam Port for Iron Ore handling on DBFOT basis - Concession
Agreement**

As we have mentioned earlier, we are keen to finalize the draft Concession Agreement (CA) and execute the same at the earliest. However, as discussed and clarified by VPT during the pre-bid meeting (kindly refer reply given by VPT to point no. 15 of Annexure I of Replies for the Pre-Bid Queries), it is important to provide for the Conditions Precedent (CP) separately for Phase I & II.

Vadinar Oil Terminal Limited

Registered Office Address: Essar Refinery Site, 39 KM Stone, Olda Highway (SH-25), Khambhola, Gujarat - 361305

+91 22 57 33 8100

STEEL | ENERGY | INFRASTRUCTURE | SERVICES

For ESSAR WIZAG TERMINALS LIMITED

P. G. G. G.
Authorized Signatory

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As VPT has already agreed to separate the CPs for Phase I & II, we have studied in detail the various clauses of the draft CA where this aspect needs to be incorporated in the draft CA. We have elucidated the same in the *Annexure* attached, and request you to kindly incorporate the same in the draft CA, which can become the basis for finalization and execution.

Alternatively, VPT can issue two separate Letter of Awards for Phase I and Phase II and we can sign two separate Concession Agreements for Phase I and Phase II.

Thanking you,

Yours faithfully,

for Mr. J. K. Singh
For ESSAR VIZAG TERMINALS LIMITED
Authorised Signatory

[Signature]
Authorised Signatory

[Signature]
सचिव
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वि.पो.द्र. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD

Annexure

1. Clause 3.1 of the DCA shall separately provide for Conditions Precedent for Phase I & Phase II. They may be separately numbered as 3.1 (A), and 3.1 (B) respectively for ease of reference and definition. Each of the CPs for Phase I and Phase II shall be separately mentioned (for the sake of abundant clarity), and some of the CPs of Phase I (which are Company specific and would hold good for both phases) [such as 3.1 (A) – (ii), (iii), (v), (vi), (vii), (ix)] may be specified only under 3.1 (A) [relating to phase I CPs] and not repeated in 3.1 (B) [CPs for phase II].
2. Concomitant with the above, the following clauses of the DCA also need to be addressed and corresponding provisions incorporated:
 - a) Clauses 3.2 to 3.6 shall also be provided separately for Phase I & II. They may be renumbered as 3.2 (A) to 3.6 (A) – for Phase I and 3.2 (B) to 3.6 (B) – for Phase II. This issues becomes more pertinent considering the time permitted for fulfillment of CPs for both the phases are different (120 days for Phase I and 180 days for Phase II).
 - b) The definition of the following terms in Clause 1.1 of the DCA also need to reflect the above provisions:
 - i. "Construction Phase"
 - ii. "Date of Award of Concession"
 - iii. "Date of Commercial Operations"
 - iv. "Estimated Project Cost" (to provide breakup of cost for Phase I & II separately)
 - v. "Project Capacity" (to provide breakup of capacity for Phase I & II separately)
 - vi. "Scheduled Project Completion"
 - c) Clause 2.2 to reflect the revised definition of Date of Award of Concession

For ESSAR VIZAG TERMINALS LIMITED


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ATTORNEY OF THE VPT BOARD
विशाखपट्टणम

- d) Clause 4.1 (Performance Guarantee) to reflect the amount separately for Phase I & II. We would also like to highlight that the Performance Guarantee figure of Rs.42.27 crore specified in the DCA is based on estimated project cost of Rs.346.41 crore which also includes upfront payment of Rs.185.87 crore by the Concessionaire. As the upfront payment is required to be made by the Concessionaire alongwith submission of Performance Guarantee, the Performance Guarantee amount need to be reviewed by deducting the amount of Rs.185.87 crore payable upfront from the estimate project cost.
- e) All the provisions related to "Tests", "Completion Certificate", "Provisional Certificate" and other approvals under Chapter VI shall be provided separately for Phase I & II.
- f) Clause 6.9 (Liquidated Damages) to provide for delays in completion of Phase I & II separately.
- g) Clause 7.3 (Liability for shortfall in performance) to provide for shortfall in Performance Standards separately for Phase I & II.
- h) Typographical error in Clause 9.1 A (ii) to be corrected (license fee amount for Phase II), as already discussed and agreed by VPT during pre-bid meeting.
- i) **Article 15 (Events of Default) to specifically provide that any default on a particular phase would be limited to default for that phase only and will not apply to the other phase which is not under default. Accordingly, the remedies available to the Party not under default would be limited only to the phase under default and not to the other phase which is not under default. Concomitant with this change, provisions of Article 16 (Termination of the Concession Agreement) and 17 (Compensation) should also reflect suitable changes warranted.**
- j) Appendix 5 to reflect the Project Schedule based on the modified definition of the term "Date of Award of Concession"

For ESSAR VIZAG TERMINALS LIMITED


Authorized Signatory

3. Appendix 9 to provide clarity on the requirement and applicability of new Environmental Clearance for the following two situations:

a) Start of operations for Phase I on "as-is-where-is" basis; and

b) Start of upgradation work on Phase I

4. Appendix 14 to specifically mention that the Period specified in the table would be reckoned from the actual date of start of commercial operations

5. The start date for counting the volume trigger criteria for Phase II need to be clearly specified in the CA.

For **ENVIRONMENTALS LIMITED**


Authorised Signatory



राइट्स लिमिटेड
(भारत सरकार का प्रतिष्ठान)
RITES LIMITED
(Schedule 'A' Enterprise of Govt. of India)

NO. RITES/P&C/VPT
Dated : 19.10.2013

The Chief Mechanical Engineer,
Vishakhapatnam Port Trust,
Vishakhapatnam.

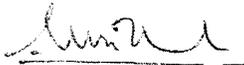
**Sub.: Up-gradation of existing facility and creation of new facility at
Vishakhapatnam Port Trust for Iron Ore handling on DBFOT basis**

Sir,

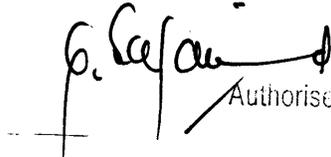
Please find attached herewith duly legally and financially vetted Final
Concession Agreement.

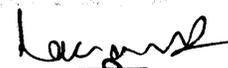
Thanking you,

Yours sincerely,


(A K Khosla)
GM/F

Encl: As Above
For ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory


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SECRETARY
वा. &
वि.पो.द्र. मंडल का प्रतिनिधि



ISO 9001 ISO 14001
OHSAS - 18001

विशाखपट्टणम पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

No.IM&EE/MECH/OHC-WQ1/3042
Dt.29.11.2013.

To
M/s. Vadinar Oil Terminal Ltd.,
Equinox Business Park,
1st Floor, Tower - 2,
Off. Bandra Kurla Complex,
L.B.S. Marg, Kurla (W),
MUMBAI - 400 070.

FAX No.022-67682188

Sir,

Sub: Up-gradation of the existing facility and creation of new facility at
Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build,
Finance, Operate and Transfer (DBFOT) basis - Reg.
Ref: This office Letter of Award (LOA) No.IM&EE/MECH/OHC-WQ1/3042,
dt.31.05.2013.

* * * * *

Please refer to the Letter of Award cited above. In continuation to this Letter of Award, it is to inform that, Board of Trustees of VPT has approved, to go ahead with signing of the Concession Agreement with the SPV of the Concessionaire, viz. M/s Essar Vizag Terminals Limited, without prejudice to the rights of VPT and subject to outcome of the Writ Petition No.11343 of 2013, pending in the Hon'ble High Court at Hyderabad, with regard to the subject Project.

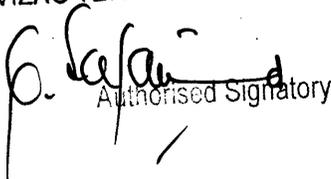
In this regard, the Concession Agreement, duly incorporating the clarifications given in the pre-bid meeting with regard to phasing of the subject project, is enclosed herewith for perusal and acceptance of the same.

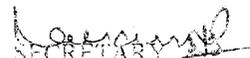
A duplicate copy of this letter is enclosed herewith, which shall be returned to the Authority duly signed by the Authorised Signatory of the Concessionaire, within 7(seven) days of the receipt of this letter, as a token of acceptance of the Concession Agreement and for signing the same.

Yours faithfully,

Encl: Concession Agreement in 198 pages

For ESSAR VIZAG TERMINALS LIMITED

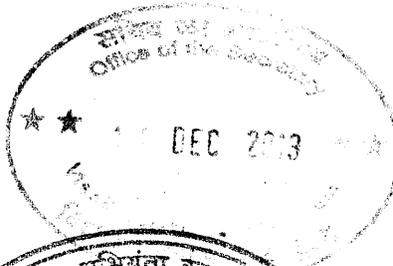

Authorised Signatory


SECRETARY
ATTORNEY OF THE BOARD

विशाखपट्टणम पोर्ट ट्रस्ट, विशाखपट्टणम - 530 035, फोन : 0891-2876000, फेक्स : (91) + 891-2565023, सार पोर्ट ट्रस्ट
Visakhapatnam Port Trust, Visakhapatnam - 530 035, Ph : 0891-2876000, Fax: (91) + 891-2565023.
Grams : "PORTTRUST", E-mail : info@vizagport.com


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वि.पो.ट. मंडल का प्रतिनिधि

Date: 4 December 2013



To:
The Secretary,
Visakhapatnam Port Trust
Visakhapatnam - 530 035

Vadinar Oil Terminal Limited
Equinox Business Park
1st Floor, Tower - 2
Off Bandra Kurla Complex
L.B.S. Marg, Kurla (W)
Mumbai 400 070.
India

T +91 22 6733 5000
F +91 22 6708 2188
www.essar.com



Dear Sir,

Sub: Up-gradation of the existing facility and creation of new facility at Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis- Reg.

Adverting to your letter No. IM&EE/MECH/OHC-WQ1/6461 dated 28.11.2013 on the above subject, as desired by you, we enclose herewith a copy of the aforesaid letter duly signed by us as a token of our acceptance of the Concession Agreement and our intention to sign the same with you. This is on the faith and belief that pending all existing as well as further litigation that may arise in Courts or Arbitration Tribunal or any other dispute resolution forum in connection with the award of the captioned bid to us, you shall, at our request, extend time, for the performance by us of the various obligations, including the Conditions Precedent set out in the Concession Agreement on an understanding that there is justification for our seeking extension of time from you for the aforesaid purpose when the disputes concerning the subject matter of the Concession Agreement is pending for hearing before the Courts or Tribunals, as the case may be.

We request you to kindly acknowledge and give your concurrence of the contents of this letter, and also request that this letter and your acceptance thereof be made an integral part of the Concession Agreement.

For ESSAR VIZAG TERMINALS LIMITED

Thanking You,

P. Safai
Authorised Signatory

For Vadinar Oil Terminal Limited
(Authorised Signatory)



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10/12/13

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EXE(M/S)
11/12/13

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ISO 9001, ISO 14001
OHSAS - 18001

विशाखपट्टणम पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

No.IM&EE/MECH/OHC-WQ1/6461
Dt.28.11.2013.

To
M/s. Vadinar Oil Terminal Ltd.,
Equinox Business Park,
1st Floor, Tower - 2,
Off. Bandra Kurla Complex,
L.B.S. Marg, Kurla (W),
MUMBAI - 400 070.

FAX No.022-67082188

Sir,

Sub: Up-gradation of the existing facility and creation of new facility at Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis - Reg.
Ref: This office Letter of Award (LOA) No.IM&EE/MECH/OHC-WQ1/3042, dt.31.05.2013.

* * * * *

Please refer to the Letter of Award cited above. In continuation to this Letter of Award, it is to inform that, Board of Trustees of VPT has approved, to go ahead with signing of the Concession Agreement with the SPV of the Concessionaire, viz., M/s Essar Vizag Terminals Limited, without prejudice to the rights of VPT and subject to outcome of the Writ Petition No.11343 of 2013, pending in the Hon'ble High Court at Hyderabad, with regard to the subject Project.

In this regard, the Concession Agreement, duly incorporating the clarifications given in the pre-bid meeting with regard to phasing of the subject project, is enclosed herewith for perusal and acceptance of the same.

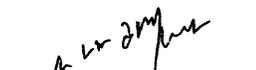
A duplicate copy of this letter is enclosed herewith, which shall be returned to the Authority duly signed by the Authorised Signatory of the Concessionaire, within 7(seven) days of the receipt of this letter, as a token of acceptance of the Concession Agreement and for signing the same.

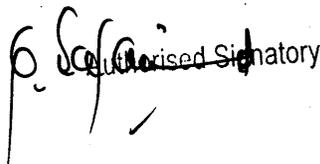
Yours faithfully,

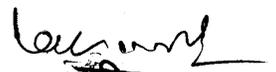
Encl: Concession Agreement in 198 pages
For ESSAR VIZAG TERMINALS LIMITED


SECRETARY
ATTORNEY OF THE BOARD




4-12-2013


Authorised Signatory


सचिव
SECRETARY



ISO 9001, ISO 14001
OHSAS - 18001

विशाखपट्टणम पोर्ट ट्रस्ट
VISAKHAPATNAM PORT TRUST

No.IM&EE/MECH/OHC-WQ1/ 6734
Dt. 12.12.2013.

To
M/s. Vadinar Oil Terminal Ltd.,
Equinox Business Park,
1st Floor, Tower - 2,
Off. Bandra Kurla Complex,
L.B.S. Marg, Kurla (W),
MUMBAI - 400 070.

FAX No.022-67082188

Sir,

Sub: Up-gradation of the existing facility and creation of new facility at Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis - Reg.

- Ref: 1. This office Letter of Award (LOA) No.IM&EE/MECH/OHC-WQ1/3042, dt.31.05.2013.
2. This office letter No.IM&EE/MECH/OHC-WQ1/6461, dt.28.11.2013.
3. Your letter dated 04.12.2013.
4. This office letter No.IM&EE/MECH/OHC-WQ1/6687, dt.09.12.2013.
5. Your letter dated 09.12.2013.
6. This office letter No.IM&EE/MECH/OHC-WQ1/6715, dt.11.12.2013.

* * * * *

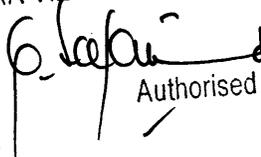
Please refer to the discussions held in the Chambers of Chairman on 12.12.2013 on the subject issue.

In this connection, it is to inform that, the request for extension of time for compliance of various obligations by the Concessionaire under the Concession Agreement including Conditions Precedent would be examined by the Concessions Authority, i.e., VPT. The request will be considered as per Article 3.3 of the Concession Agreement, provided, such dispute involves VPT and/or the dispute affects the performance of any obligation to be fulfilled by M/s Vadinar Oil Terminal Limited, under the Concession Agreement.

Further, it is to inform that, various correspondence letters in this regard will form an integral part of Concession Agreement.

You are requested to kindly acknowledge and give your concurrence, so as to proceed

further
FOR ESSAR VIZAG TERMINALS LIMITED


Authorised Signatory

Yours faithfully,


SECRETARY

ATTORNEY OF BOARD



ISO 9001 ISO 14001
OHSAS - 18001

विशाखपट्टणम पोर्ट ट्रस्ट
VISA KHAPATNAM PORT TRUST

No.IM&EE/MECH/OHC-WQ1/ 6737
Dt. 12.2013.

To
M/s. Vadinar Oil Terminal Ltd.,
Equinox Business Park,
1st Floor, Tower - 2,
Off. Bandra Kurla Complex,
L.B.S. Marg, Kurla (W),
MUMBAI - 400 070.

FAX No.022-67082188

Sir,

- Sub: Up-gradation of the existing facility and creation of new facility at Visakhapatnam Port Trust, for Iron Ore Handling on Design, Build, Finance, Operate and Transfer (DBFOT) basis - Reg.
- Ref: 1. This office Letter of Award (LOA) No.IM&EE/MECH/OHC-WQ1/3042, dt.31.05.2013.
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6. This office letter No.IM&EE/MECH/OHC-WQ1/6715, dt.11.12.2013.

* * * * *

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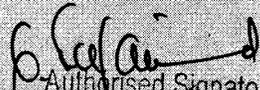
You are requested to kindly acknowledge and give your concurrence, so as to proceed further.

Yours faithfully,


SECRETARY
ATTORNEY OF BOARD

Accepted
12/12/13
For ESSAR VIZAG TERMINALS LIMITED




Authorised Signatory

विशाखपट्टणम पोर्ट ट्रस्ट, विशाखपट्टणम - 530 035, फोन : 0891-2876000, फेक्स : (91) + 891-2565023, तार : पोर्ट्रस्ट
Visakhapatnam Port Trust, Visakhapatnam - 530 035. Ph : 0891-2876000, Fax : (91) + 891-2565023.
Grams : "PORTRUST", E-mail : info@vizagport.com

Essar Vizag Terminals Limited

Equinox Business Park
1st Floor, Tower - 2
Off Bandra Kurla Complex
L.B.S. Marg, Kurla (W)
Mumbai 400070
India

T + 91 22 6733 6000
F + 91 22 6708 2188
www.essar.com

Certified true extract from the resolutions passed
by the Board of Directors of Essar Vizag Terminals
Limited at their meeting held on October 25, 2013

"RESOLVED THAT the Company do enter into a Concession Agreement with the Vishakhapatnam Port Trust (VPT) as per the terms and conditions agreed to between the Company and VPT."

"RESOLVED FURTHER THAT Shri. Rajiv Agarwal, Shri. K. K. Sinha and Shri. Shallesh Sawa, the Directors and Shri. Ch. Satyanand, Authorised Signatory (hereinafter collectively referred to as 'Authorised Persons') be and are hereby severally authorised to execute the Concession Agreement and other relevant documents, undertakings, writings, etc., with the VPT."

"RESOLVED FURTHER THAT the Common Seal of the Company be and is hereby authorised to be affixed on such documents including the Concession Agreement, that may be required to be executed under the Common Seal of the Company, in the presence of any one of the aforesaid Authorised Persons."

"RESOLVED FURTHER THAT in the event the Common Seal of the Company is required to be taken to place(s) other than the Registered Office of the Company, the aforesaid Authorised Persons be and are hereby severally authorised to carry the same to such place(s) where the affixation is required."

"RESOLVED FURTHER THAT a copy of the above resolution duly certified to be true by any Director of the Company be furnished to the concerned as and when required."

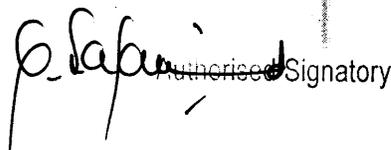
/ CERTIFIED TRUE COPY /
FOR ESSAR VIZAG TERMINALS LIMITED


DIRECTOR



Essar Vizag Terminals Limited
Registered office: Essar House, Opp. Gujarat Cottage, Near Hotel Inter Residency, Ellisbridge, Ahmedabad, Gujarat - 380 006. T +91 2833 661449. F +91 2833 6662929.

For ESSAR VIZAG TERMINALS LIMITED
SEASIDE | ENERGY | INFRASTRUCTURE | SERVICES


Authorised Signatory


सचिव
SECRETARY
वा. &
वि.पो.ट. मंडल का प्रतिनिधि
ATTORNEY OF THE VPT BOARD
विशाखपट्टणम/VISAKHAPATNAM.



महाराष्ट्र, MAHARASHTRA

अनिल मोडकर

एवढाना धारक मुद्रांक विक्रेता क.

मुद्रांक कोर्ट एल. बी. एस. मार्ग, मुंबई

क्रमांक 103/2013 दिनांक 20/03/2013

प्राप्त

व्यायिकेतर

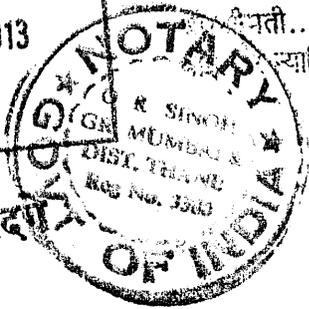
मुद्रांक पेपर विकला

VADINAR OIL TERMINAL LIMITED
 Equinox Business Park, Tower Equinox
 LES Marg, Kurla (West),
 Mumbai - 400 070.

HA 565433

20 MAR 2013

प्रधान मुद्रांक कार्यालय, मुंबई
 प. नं. विक्रेता क्र. ९९
 18 MAR 2013
 अधिकारी



श्री. का. रा. मदास

विक्रेत्याची सक्ष

Power of Attorney

Know all men by these presents, We **Vadinar Oil Terminal Limited** having our Registered Office at Essar Refinery Site, 39 KM Stone, Okha Highway (SH-25), Khambhalia, Dist. - Jamnagar, Gujarat - 361305 do hereby irrevocably constitute, nominate, appoint and authorise **Mr. Sanjay Singh**, son of Mr. Kedar Nath Singh, and presently residing at Building No. 12, Flat No. 903, NRI Complex, Sector - 56 & 58, Nerul, Navi Mumbai - 400 706, **Mr. Chandrakant Shah**, son of Late Mr. Chaganlal Shah and presently residing at 204, Royal Touch, Yogi Hills, Mulund West, Mumbai 400 080, and **Mr. Habib Jan**, Son of Mr. Amir Jan and presently residing at Room No. 104, First Floor, Saidham Apartments, Plot No. - 97, Sector - 14, Koparkhairane, Navi Mumbai - 400 709, severally, 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 "Upgradation of existing facility and creation of new facility at Visakhapatnam Port for iron ore handling on DBFOT basis" (the Project) 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, participate 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.

Authorised Signatory

SECRETARY



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 VADINAR OIL TERMINAL LIMITED THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF MARCH 2013.

For Vadinar Oil Terminal Limited

Deepak

Captain Deepak Sachdeva
Executive Director
Essar House
11 K. K. Marg
Mahalaxmi
Mumbai - 400 034

Countersigned by

Witnesses:

- 1. *H. V. Sheth*
H. V. Sheth
 - 2. *H. V. Sheth*
H. V. Sheth
- Accepted

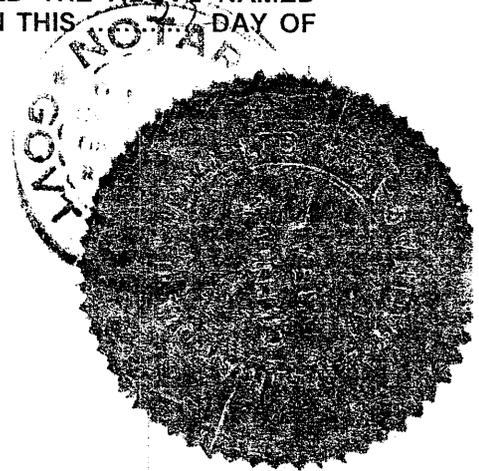
Chandrakant Shah
Chandrakant Shah
Essar House
11, K. K. Marg
Mahalaxmi
Mumbai - 400 034

Habib Jan
Habib Jan
Essar House
11, K. K. Marg
Mahalaxmi
Mumbai - 400 034

S. R. Patil
S. R. PATIL
Advocate High Court
Kurla Court, L.B.S. Marg,
Kurla (W), Mumbai - 400 070.

For ESSAR VIZAG TERMINAL LIMITED

Palafan
Authorised Signatory



Habib Jan
Habib Jan
(Company Secretary)

Tarakesh Kumar Tiwari
2. **TARAKESH KUMAR TIWARI**

Sanjay Singh
Sanjay Singh
Essar House
11, K. K. Marg
Mahalaxmi
Mumbai - 400034

ATTESTED BY ME

O. R. Singh
O. R. SINGH
Advocate & Notary
Govt. of India
87, Dular Pachu Estate,
New Mill Rd., Bridge,
Kurla (W), Mumbai-400070.

22 MAR 2013 SECRETARY