

CORRIGENDUM-III

Ref. Tender Notice No.: KOPT/KDS/CIV /T/2205/52 **Date** 06.12.2017

E Tender No. KoPT/Kolkata Dock System/CE/192/17-18/ET/465
CORRIGENDUM-I vide no. KOPT/KDS/CIV/T/2205/2085 Date: 28.12.2017
CORRIGENDUM-II vide no. KOPT/KDS/CIV/T/2205/122 Date: 11.01.2018

Name of Work :-E- Tender for “Selection of Consultant For Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR), Environment Impact Assessment including Environment Management Plan (EIA & EMP) and Bid Documents for Development of a Deep Sea Port at Tajpur, West Bengal.

In continuation to earlier Corrigendum Notice No.I & II further Corrigendum is being issued relating to the subject tender as attached which may be obtained from MSTC Website www.mstcecommerce.com/eprochome, KoPT website **www. Kolkataporttrust.gov.in** and Govt. of India website www.eprocure.gov.in

The last date of submission of Bid will be on 06.02.2018 at 13.00 hours.

The Bid will be opened on 06.02.2018 at 15.00 hours.

All other terms & conditions and Clauses will remain same as per original

Enclo. As stated

Superintending Engineer

For मुख्य अभियंता / Chief Engineer

CORRIGENDUM-III PART-I		
Query	Original Clause with No	Amended Clause
<p>Normally incorporated Consortium by forming SPV under the Indian companies' act 1956 is required for high value EPC/DBFOT development works. While this work is small consultancy work and hence it is not required. Hence we request to modify this clause as</p> <p><i>“Where the ‘Successful Tenderer’ is ‘un-incorporated Consortium’ formed to execute the Contract Agreement and execute the contract.”</i></p> <p>And replace SPV formation from the subsequent clauses of RFP.</p> <p>Also for the registration JV/SPV in India require governmental approvals, if a foreign partner or an NRI or PIO partner is involved. The approval can be obtained from either from RBI or FIPB which is very</p>	<p>44.0 JOINT VENTURES / CONSORTIUM AND OTHER FORMS OF ASSOCIATION</p> <p>i) In case of a Consortium, the combined Technical and Financial Capability of those members who have and shall have an equity share of at least 26% (twenty six per cent) each in the Special Purpose Vehicle (or SPV) as explained in this tender document, should satisfy the above conditions of eligibility, provided that each such member shall, for the entire period of the contract, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.</p> <p>44.2 Technical & Financial Capability.</p> <p>The tenderer (whether a single entity or a consortium) must satisfy pre-qualification criteria as stipulated at Clause- 3.0.</p> <p>44.3 Assessment of eligibility:</p> <p>44.3.1 In case of a Consortium, the combined Technical and Financial Capability of those members who have and shall have an equity share of at least 26% (twenty six per cent) each in the Special Purpose Vehicle (or</p>	<p>44.0 JOINT VENTURES / CONSORTIUM AND OTHER FORMS OF ASSOCIATION</p> <p>i) In case of a Consortium, the combined Technical and Financial Capability of those members who have and shall have share of at least 26% (twenty six per cent) each, should satisfy the above conditions of eligibility, provided that each such member shall, for the entire period of the contract, hold share not less than 26%.</p> <p>44.2 Technical & Financial Capability.</p> <p>The tenderer (whether a single entity or a consortium) must satisfy pre-qualification criteria as stipulated at Clause- 4.0.</p> <p>44.3 Assessment of eligibility:</p> <p>44.3.1 In case of a Consortium, the combined Technical and Financial Capability of those members who have and shall have share of at least 26% (twenty six per cent) each, should satisfy the above conditions of eligibility, provided that each such member shall, for the entire period of the contract, hold</p>

<p>lengthy and cumbersome process. Therefore it is requested to relax this stringent conditions. Kindly confirm.</p>	<p>SPV) as explained in this tender document, should satisfy the above conditions of eligibility, provided that each such member shall, for the entire period of the contract, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.</p> <p>44.3.5 Where the ‘Successful Tenderer’ is a ‘Consortium’, it shall be required to form an appropriate ‘Special Purpose Vehicle’ or SPV, incorporated under the Indian Companies Act 1956, to execute the Contract Agreement and execute the contract. It shall, in addition to forming the SPV, comply with the following additional requirements:</p> <p>a) Members of the Consortium shall nominate one member as the ‘Lead Member’ who shall have an equity share holding of at least 26% of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Annexure-V, signed by all the other members of the Consortium;</p> <p>c) Members of the Consortium shall enter into a binding Joint Bidding Agreement (JBA) (substantiated in the form specified at Annexure-VIII, for the purpose of submitting Tender. The JBA, to be submitted along with the Tender, shall, inter alia:</p> <p>i) Convey the intent to form an SPV with</p>	<p>share not less than 26% (twenty six per cent).</p> <p>44.3.5 Where the ‘Successful Tenderer’ is a ‘Consortium’, it shall be required to comply with the following additional requirements:</p> <p>a) Members of the Consortium shall nominate one member as the ‘Lead Member’. The nomination(s) shall be supported by a Power of Attorney, as per the format at Annexure-V, signed by all the other members of the Consortium;</p> <p>c) Members of the Consortium shall enter into a binding Joint Bidding Agreement (JBA) (substantiated in the form specified at Annexure-VIII, for the purpose of submitting Tender. The JBA, to be submitted along with the Tender, shall, inter alia:</p> <p>i) Deleted</p>
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	<p>shareholding / ownership equity commitment(s) in accordance with this tender, which would enter into the Contract Agreement and subsequently perform all the obligations of BHOR SAGAR PORT PVT LTD in terms of the said agreement, in case the Contract is awarded to the Consortium;</p> <p>ii) Clearly outline the proposed roles and responsibilities, if any, of each member; Commit the minimum equity stake to be held by each member;</p> <p>iii) Commit the minimum equity stake to be held by each member;</p> <p>iv) Commit that each of the members, whose experience will be evaluated for the purposes of this Tender, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV;</p> <p>v) Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the completion of two years from the date of commencement of the contract and</p>	<p>ii) Clearly outline the proposed roles and responsibilities, if any, of each member; Commit the minimum stake to be held by each member;</p> <p>iii) Commit the minimum stake to be held by each member;</p> <p>iv) Deleted</p> <p>v) deleted</p>
<p>We request KoPT to confirm if the baseline monitoring needs to be done for one season or 3 seasons for EIA & EMP study.</p> <p>(i) We understand that</p>	<p>Clause No 53 H: EIA Study for Environmental clearance : I) Timeframe: ‘0’ Date plus 10 months.</p>	<p>Clause No 53 H: “EIA Study for Environmental clearance: Timeframe: ‘0’ Date plus 10 months. <i>(This being a Greenfield project, Statutory Authority is likely to order a Comprehensive EIA. However for this purpose extra time as</i></p>

<p>consultant has to collect 3 season baseline data for comprehensive EIA study. This is not feasible within the timeline as given in clause 54 (Page-68) of ToR. Normally it will take approx.18 months from the submission of TOR to submission of draft EIA report to MoEFCC.</p> <p>(ii) The consultant will only be responsible for submission of documents to authorities and make presentations. The responsibility of getting the environmental clearance cannot be undertaken by the consultant. Please clarify & confirm.</p>		<p><i>may be specified by MOEF&CC may be allowed without any additional payment).</i>”</p>
<p>Since this assignment is for the preparation of DPR which will be carried out by a single consultant, we request you to delete the following clause: “The work also may be split up between two or more contractors or accepted in part and not entirely, if considered expedient”</p>	<p>Clause No 5.1: Bhor Sagar Port Pvt Limited does not bind itself to accept the lowest tender and reserves to itself the authority to reject any or all the tenders received without assigning any reason whatsoever. <i>The work also may be split up between two or more contractors or accepted in part and not entirely</i>, if considered expedient. Tenders in which any of the particulars and prescribed information are missing or are incomplete in any respect and/or the prescribed conditions are not</p>	<p>Clause No 5.1: Bhor Sagar Port Limited does not bind itself to accept the lowest tender and reserves to itself the authority to reject any or all the tenders received without assigning any reason whatsoever. The work also may be accepted in part and not entirely, if considered expedient. Tenders in which any of the particulars and prescribed information are missing or are incomplete in any respect and/or the prescribed conditions are not fulfilled are liable to be rejected. Tenderers may please note that any conditions be it financial or otherwise, not covered in the tender documents will not be entertained and such tenders are liable for rejection</p>

	fulfilled are liable to be rejected. Tenderers may please note that any conditions be it financial or otherwise, not covered in the tender documents will not be entertained and such tenders are liable for rejection.	
Since we would be submitting the completion certificates for all the projects (private/ govt.), requirement of TDS certificate for relevant works will not serve the purpose and we request you to delete the below mentioned clause: “Scanned copy of original TDS Certificate for the relevant works must be furnished if the work certificate is from any private organisation from the above purpose”.	Clause No 22 (c) Scanned Copies of Audited Balance Sheet/Profit & loss account/ Certificate from Chartered Accountant for last three years ending 31st March 2017. Scanned copy of original TDS Certificate for the relevant works must be furnished if the work certificate is from any private organisation from the above purpose.	Clause No 22 (c) Scanned Copies of Audited Balance Sheet/Profit & loss account/ Certificate from Chartered Accountant for last three years ending 31st March 2017.
Please confirm the selection procedure is as per lowest bid or as per two stage evaluation mentioned in clause 49B	Clause 49 A Prior to the expiration period of proposal validity, the Employer will notify the successful consultant who submitted the lowest financial proposal among the qualified Bidders in technical evaluation shall be uploaded on Website and invite it to negotiate the Contract if required. The party selected for award of assignment shall be issued a Letter of Award by Employer. This letter along with written acknowledgement of the successful party shall constitute contract between the party/ies with Employer, till signing of formal agreement	Clause 49 A “The party selected for award of assignment shall be issued a Letter of Award by Employer. This letter along with written acknowledgement of the successful party shall constitute contract between the party/ies with Employer, till signing of formal agreement.”

<p>This clause is very severe, only one sided evaluation is considered and is discretionary in nature. We request you to delete this clause.</p>	<p>Clause 50.9.2 stands amended as “Liquidated Damages for delay:</p> <p>50.9.2 Liquidated Damages for delay: In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two percent) of the Agreement Value per day, subject to a maximum of 10% (ten percent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted without levying Liquidated Damages (LD).</p>	<p>Clause 50.9.2 stands amended as “Liquidated Damages for delay:</p> <p>50.9.2 Liquidated Damages for delay: In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.1% (zero point one percent) of the Agreement Value per day, subject to a maximum of 10% (ten percent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted without levying Liquidated Damages (LD).</p>
<p>Appendix-A at Page-91 It is requested to modify minimum essential experience criteria as 20 years for Graduates or 17 years for Post Graduate instead of 25 yrs and 22 yrs respectively as experts are scarcely available on roll;</p> <p>Essential Experience: Minimum 20 years' experience for Graduates or 17 years' experience for Post Graduates including Ports & Harbour</p>	<p>(a) Team Leader Cum Project Coordinator</p> <p>Essential Experience: Minimum 25 years' experience for Graduates or 22 years' experience for Post Graduates including Ports & Harbour Engineering, Port Management and exposure to preparation of TEFR /DPR development of Port projects involving Breakwaters, dredging, reclamation, cargo terminals, connectivity and Structuring of Port projects etc. He should have led the study teams for minimum five similar Assignments. He shall be a full time employee of the lead firm.</p>	<p>(a) Team Leader cum project Coordinator:</p> <p>Essential experience: Minimum 20 years' experience for Graduates or 15 years' experience for Post Graduates including Ports & Harbour Engineering, Port Management and exposure to preparation of TEFR /DPR development of Port projects involving Breakwaters, dredging, reclamation, cargo terminals, connectivity and Structuring of Port projects etc. He should have led the study teams for minimum three similar Assignments. He shall be a full time employee of the lead firm.</p>

<p>Engineering, Structural Engineering, Port Management and exposure to preparation of TEFR /DPR development of Port projects involving Breakwaters, dredging, reclamation, cargo terminals, connectivity and Structuring of Port projects etc. Formal Education/course in Port Planning would be an advantage. He should have led the study teams <u>for minimum three similar Assignments.</u> He shall be a full time employee of the lead firm.</p>		
<p>Appendix-A at Page-91</p> <p>It is requested to <i>allow external consultants engaged with the bidder since more than year</i> as a full time employee with 20/17 years are scarcely available on roll.</p> <p>Please confirm.</p>	<p>(b) Technical Expert</p> <p>Essential Experience: Minimum 20 years' experience for Graduates or 17 years' experience for Post Graduates including Planning and Designing of Port Layouts & Marine Structures, Dredging, Cargo Terminals, Estimating, Scheduling of works and Port operations and experience in preparation of detailed engineering of marine structures like breakwaters, berths. He should have worked as a Technical Expert for minimum five similar Assignments. He shall be a full time employee of the lead firm.</p>	<p>(b) Technical Expert</p> <p>Essential experience: Minimum 20 years' experience for Graduates or 15 years' experience for Post Graduates including Planning and Designing of Port Layouts & Marine Structures, Dredging, Cargo Terminals, Estimating, Scheduling of works and Port operations and experience in preparation of detailed engineering of marine structures like breakwaters, berths. He should have worked as a Technical Expert for minimum three similar Assignments. He shall be a full time employee of the lead firm.</p>
<p>Appendix-A at Page-91 It is requested to consider</p>	<p>(c) Mechanical Expert</p>	<p>(c) Mechanical Expert</p>

<p>essential experience criteria for Mechanical Expert as;</p> <p>Essential Experience: Minimum 15 years' experience for Graduates or 12 years' experience for Post Graduates in Equipment Planning Operational systems of Cargo Handling systems. He should have worked as a Mechanical Expert for minimum one similar Assignments.</p>	<p>Essential Experience: Minimum 20 years' experience for Graduates or 17 years' experience for Post Graduates in Equipment Planning Operational systems of Cargo Handling systems. He should have worked as a Mechanical Expert for minimum three similar Assignments.</p>	<p>Essential Experience: Minimum 20 years' experience for Graduates or 15 years' experience for Post Graduates in Equipment Planning Operational systems of Cargo Handling systems. He should have worked as a Mechanical Expert for minimum one similar Assignments.</p>
<p>Appendix-A at Page-92 It is requested to consider educational and essential criteria as;</p> <p>Educational Qualification: M.B.A in Finance or Chartered accountant with exposure to Port/<i>transport logistics or large infrastructure projects</i></p> <p>Essential Experience: Minimum 15 years as financial expert in Tariff setting, Economic & Financial Viability Analysis, funding pattern</p>	<p>(e) Economist / Financial Expert</p> <p>Educational Qualification: M.B.A in Finance or Chartered accountant with exposure to Port logistics</p> <p>Essential Experience: Minimum 15 years as financial expert in Ports and or Shipping Companies, Tariff setting, Economic & Financial Viability Analysis, funding pattern etc. He should have worked as Economist / Financial Consultant for minimum three similar Assignments.</p>	<p>(e) Economist / Financial Expert</p> <p>Educational Qualification: M.B.A in Finance or Chartered accountant with exposure to Port logistics</p> <p>Essential Experience: Minimum 15 years as financial expert in Ports and or Shipping Companies, Tariff setting, Economic & Financial Viability Analysis, funding pattern etc. He should have worked as Economist / Financial Consultant for minimum one similar Assignments.</p>

etc. for port sector or large infrastructure projects. He should have worked as Economist / Financial Consultant for minimum one similar Assignments in Ports /infrastructure sector.		
<p>Appendix-A at Page-92 It is requested to consider minimum 10 years' experience instead 15 years and modify criteria as;</p> <p>Essential Experience: Minimum 10 years in Geotechnical Assessment of site, Formulation of parameters for design etc. Geotechnical Design of marine/riverine structures, dams/barrage etc. He should have worked as a Geotechnical Expert for minimum One similar Assignment.</p>	<p>(g) Geotechnical expert</p> <p>Essential Experience: Minimum 15 years in Geotechnical Assessment of site, Formulation of parameters for design etc. Geotechnical Design of marine structures. He should have worked as a Geotechnical Expert for minimum three similar Assignments.</p>	<p>(g) Geotechnical expert</p> <p>Essential Experience: Minimum 10 years in Geotechnical Assessment of site, Formulation of parameters for design etc. Geotechnical Design of marine structures. He should have worked as a Geotechnical Expert for minimum one similar Assignments.</p>
We find that the terms of reference in this RfP are not clear and there is no detailing provided for the mathematical modelling and neither for field	<p>Clause 52.2</p> <p>Site condition assessment: Site condition assessment: Technical suitability of the site for proposed development is included as scope of work.</p>	<p>Clause 52.2</p> <p>Site condition assessment Technical suitability of the site for proposed development is included as scope of work including all necessary mathematical modelling and simulation studies, primary field surveys and secondary</p>

<p>survey. These are two most essential inputs for any subsequent decision about site selection and the terms of reference is very silent on the type of studies to be carried out in support of the decision on site / location selection; port lay out etc.</p> <p>Hence we request KoPT to frame the terms of reference for modelling studies more specifically?</p>		<p>surveys</p>
<p>Kindly request you to consider MSc in Marine Geology also for this qualification.</p> <p>(Consultant's proposed personnel has more than 20 years of experience in environmental studies in infrastructure projects and is also a NABET accredited in the Port Sector)</p>	<p>Appendix A</p> <p>Clause f</p> <p>Environmental Expert</p> <p>Educational qualification:</p> <p>Master's Degree in Environmental Engineering or Masters Degree in Environmental Science or Degree in Civil Engineering with Master's Degree in Environmental Sciences</p>	<p>Appendix A</p> <p>Clause f</p> <p>Environmental Expert</p> <p>Educational qualification:</p> <p>Master's Degree in Environmental Engineering or Masters Degree in Environmental Science/ Zoology/ Botany/ Geology/ Marine Biology or equivalent or Degree in Civil Engineering with Master's Degree in Environmental Sciences/Engineering</p>
	<p>Clause 50.5.2</p> <p>The Employer shall make available to the Consultants and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix- C at the times and in the manner specified in said Appendix- C, provided that if such services, facilities and property shall not be made available to the Consultants as and when so specified, the Parties shall agree on (i) any time extension that it</p>	<p>Clause 50.5.2</p> <p>Deleted</p> <p>With Annexure C</p>

	may be appropriate to grant to the Consultants for the performance of the Services, (ii) the manner in which the Consultants shall procure any such services, facilities and property from other sources.	
	<p>50.5.4 Counterpart Personnel</p> <p>(a) If so provided in Appendix- C hereto, counterpart personnel, the Employer shall make available to the Consultants, as and when provided in such Appendix- C, and free of charge, such counterpart personnel to be selected by the Employer, with the Consultant's advice, as shall be specified in such Appendix- C.</p> <p>Counterpart personnel shall work under the exclusive direction of the Consultants. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the Consultants which is consistent with the position occupied by such member, the Consultants may request the replacement of such member, and the Employer shall not unreasonably refuse to act upon such request.</p> <p>(b) If counterpart personnel are not provided by the Employer to the Consultants as and when specified in Appendix- C, the Employer and the Consultants shall agree on how the affected part of the Services shall be carried out.</p>	<p>50.5.4 Counterpart Personnel</p> <p>Deleted</p> <p>With Annexure C</p>
The hiring of institutes to conduct specific study, if any as per approved TOR is included in bidder's scope or will be hired by Client on suggestion of bidder.	<p>52.4.iii</p> <p>Necessary specific study as recommended by MoEF & CC in approval of ToR is to be carried out without any extra cost. This will include any specific study to be carried out by reputed Institute as suggested in ToR.</p>	<p>52.4.iii</p> <p>“Necessary specific study as recommended by MoEF & CC in approval of ToR is to be carried out without any extra cost. This will include any specific study to be carried out by reputed Institute as suggested in ToR at his own cost. ”</p>

There seems an error in the in the overall distribution of fees split. The total payment of fees sum up to 95%. We suggest amending the payment stage of Draft Techno-Economic Feasibility Report to 15%.	Clause 54 (sl No 8)			
	Deliverable	Description of Deliverable	Timeline* (from date of LOA)	Payment ** (% of total fees)
	8	EIA/EMP and Environmental Clearance	14 months*	5%
As per the clause 52.2.13, the appraisal report has to include analysis of financial viability of the project. The time period mentioned for draft report submission of the same is 1 month from start of project. You would appreciate that financial and economic viability analysis of the project can only be estimated post detailed assessment of market potential, technical assessment of project components and their costs. Thus it is requested that appraisal report timeline be combined with Draft TEFR.	53C. Appraisal Report: Submission of Appraisal Report and Presentation to Authority. Timeframe: Within one Month from date of LOA			
	52.2.13. Carrying out Economic and Financial viability analysis of the project and implementation structure. The Consultant shall prepare an Appraisal Report for the Project outlining the salient features of the Project, its financial viability and its social and economic benefits. The Consultant shall work out the financial aviability of the Project with a view to estimating the likely IRR over a concession period of 10 (ten) years, 15 (fifteen) years, 20 (twenty) years, 25 (twenty five) years and 30 (thirty) years. The Consultant shall estimate the capital costs, O&M costs; revenues etc. and prepare a financial appraisal report for the Project (the “Appraisal Report”).			
	53C. Appraisal Report: Submission of Appraisal Report and Presentation to Authority. Timeframe: Within 1.5 Months from date of LOA			
	52.2.13. “The Consultant shall prepare an Appraisal Report for the Project outlining the salient features of the Project, its financial viability and its social and economic benefits. The Consultant shall work out the financial viability of the Project with a view to estimating the likely IRR over a concession period of 10 (ten) years, 15 (fifteen) years, 20 (twenty) years, 25 (twenty five) years and 30 (thirty) years. The Consultant shall estimate the capital costs, O&M costs; revenues etc. and prepare a financial appraisal report for the Project (the “Appraisal Report”).			

CORRIGENDUM - III (PART-II)

Annexure-VIII

Format for Joint Bidding Agreement (in case of JV/Consortium)

(To be executed on stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the..... day of.....2018

AMONGST

1. [•, a company incorporated under the Companies Act, 1956] and having its registered office at..... (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

And

2. [•+, a company incorporated under the Companies Act, 1956] and having its registered office at]..... (hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

And

3. . [•+, a company incorporated under the Companies Act, 1956] and having its registered office at..... (hereinafter referred to as the "Third Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the [FIRST, SECOND AND THIRD] PART are collectively referred to as the "Parties" and each is individually referred to as a "Party"

WHEREAS

- (A) Bhor Sagar Port Ltd, A Special Purpose Vehicle (SPV) with share of Kolkata Port Trust and Govt. Of West Bengal is in the ratio of 74:26 having its head office at, 15th Strand Road, Kolkata - 700001, India (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited proposals (the Applications") by its Request through NIT No.... dated(the Tender Document) for appointment as Consultant for the {Project name} (the "Consultancy")
- (B) The Parties are interested in jointly bidding for the Consultancy as members of a Consortium and in accordance with the terms and conditions of the Tender document and other bid documents in respect of the Consultancy,

- (C) It is a necessary condition under the Consultancy document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and interpretations:

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium:

- a. The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the selection process for the Consultancy. In case of Joint Venture, the Parties to hereby assure that the JV will not be dissolved during the course of this assignment.
- b. Parties hereby undertake to participate in the Bidding process only through this Consortium and not individually and/ or through any other consortium constituted for this Consultancy, either directly or indirectly or through any of their Affiliates.

3. Covenants:

The Parties hereby undertake that in the event the Consortium is declared the selected Consultant and awarded the Consultancy, the Parties shall enter into a contract for consultancy services ("Contract") with the Authority and for performing all obligations as the Consultant in terms of the Contract for the Consultancy.

4. Role of the parties:

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a. Party of the First Part shall be the Member in Charge of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the selection process for the Consultancy and until the Effective Date under the Contract.
- b. Party of the Second Part shall be [•]; and c. Party of the Third Part shall be *•]

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Consultancy and in accordance with the terms of the Tender document and the Contract, for the performance of the Contract.

6. Member in Charge or Lead Member

Without prejudice to the joint and several liabilities of all the Parties, each Party agrees that it shall exercise all rights and remedies under the Contract through the Member in Charge I Lead Member and the Authority shall be entitled to deal with such Member in Charge as the representative of all Members. Each Party agrees and acknowledges that:

- a. any decision (including without limitation, any waiver or consent), action, omission, communication or notice of the Member in Charge on any matters related to the Contract shall be deemed to have been on its behalf and shall be binding on it. The Authority shall be entitled to rely upon any such action, decision or communication from the Member in Charge;
- b. consolidated invoices for the services in relation to the Consultancy performed by all the Members shall be prepared and submitted by the Member in Charge and the Authority shall have the right to release payments solely to the Member in Charge and the Authority shall not in any manner be responsible or liable for the inter se allocation of payments, works etc. among the Parties.
- c. any notice, communication, information or documents to be provided to the Consultant shall be delivered to the authorized representative of the Consultant (as designated pursuant to the Contract) and any such notice, communication, information or documents shall be deemed to have been delivered to all the Parties.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- a. Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- b. The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Party is annexed to this Agreement, and will not, to the best of its knowledge:
 - i. require any consent or approval not already obtained;
 - ii. violate any Applicable Law presently in effect and having applicability to it;
 - iii. violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- c. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d. there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects

8. Authorised Representation

The parties agree that, who is employed with the member in charge, or his/her nominee shall be the authorized representative of the consortium, to do on behalf of the Consortium, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of the Consortium's proposal for and the Consultancy including but not limited to signing and submission of all applications, proposals and other documents, participating in pre-bid and other conferences and providing information/responses to the authority, representing the consortium in all matters before the authority, signing and execution of all contracts and undertakings consequent to acceptance of the Consortium's proposal and generally dealing with the Authority in all matters in connection with or relating or arising out of the Consultancy.

9. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Effective Date under the Contract, in case the Consultancy is awarded to the Consortium. However, in case the Consortium is not selected for award of the Consultancy, the Agreement will stand terminated upon intimation by the Authority that it has not been selected and upon return of the Bid Security by the Authority.

10. Miscellaneous : This Joint Bidding Agreement shall be governed by laws of India. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SECOND PART by

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART by:

(Signature)

(Name)

SIGNED, SEALED AND DELIVERED

For and on behalf of

FOURTH PART by

(Signature)

(Name)

(Designation)

(Designation)

(Address)

(Address)

In the presence of:

1.

2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.
