



कोलकाता पत्तन न्यास  
KOLKATA PORT TRUST

सिविल इंजीनियरिंग विभाग / Civil Engineering Department  
१५, स्ट्रैंड रोड, कोलकाता- 700001/15, Strand Road, Kolkata- 700001  
मुख्य अभियंता का कार्यालय / Office of the Chief Engineer.

FAX No.033-2230-0413  
E-Mail [calport@vsnl.com](mailto:calport@vsnl.com)

EPBX No.033-2230-3451  
Website- [www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)

No.KOPT/KDS/CIV/T/2205/1874

Dt: 06.12.2017

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

**Dt: 06.12.2017**

**Name of Work :-** E-tendering 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 for BHOR SAGAR PORT LIMITED".

Estimated Cost put to tender : **Rs. 6.00 Crores**

Last date of online Submission : **05.01.2018 up to 1 P.M.**

Details may be obtained from MSTC Website  
[www.mstcecommerce.com/eprochome](http://www.mstcecommerce.com/eprochome), KoPT website  
**[www.Kolkataporttrust.gov.in](http://www.Kolkataporttrust.gov.in)** and Govt. of India  
website **[www.eprocure.gov.in](http://www.eprocure.gov.in)**

Date of opening of tender: **05.01.2018** shortly after **3.30 P.M.**

**Chief Engineer**

**BID DOCUMENT**

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**

For

**BHOR SAGAR PORT LIMITED**

Issued by

**CHIEF ENGINEER, KOLKATA PORT TRUST  
FOR BHOR SAGAR PORT LIMITED,  
15 STRAND ROAD, KOLKATA 700001**

**TELEPHONE: 033 2230-0413/033-2231-3214**

**FAX: 033 2230-0413/033-2231-3271**

**e-mail: [ce@kolkataporttrust.gov.in](mailto:ce@kolkataporttrust.gov.in)/[dmd@kolkataporttrust.gov.in](mailto:dmd@kolkataporttrust.gov.in)**

## **e-Tender Call Notice (e-TCN)**

**Tender No : KOPT/KDS/CIV/T/2205/52 date 6.12.2017**

**e-Tender Notice No- KoPT/Kolkata Dock System/CE/192/17-18/ET/465**

1. (a) Global e-Tenders are invited in Single Stage Two Bid System in Item Rate for the following work on behalf of Bhore Sagar Port Limited from the experienced Bidders meeting the pre-qualifying criteria through on-line bidding on the website <https://www.mstcecommerce.co> having Digital Signature Certificate (DSC) issued from any agency authorized by Controller of Certifying Authority (CCA), Govt. of India and which can be traced up to the chain of trust to the Root Certificate of CCA.

(b) The Bidder who wants to participate should have valid licence/Registration. Any Foreign agency can also participate by making a Consortium/ Joint Venture with some Indian Firm fulfilling the above criteria.

(c) The Bidder should submit PAN Details

2. The Bidder should submit bids for the following work.

Description of work	Earnest Money Deposit (in Rs.)	Tender fee (in Rs.)	Period of Completion
Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep Sea Port at Tajpur, West Bengal	5,00,000/-	2500/-	14 Months*
<b>Scope of work: The work involves Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &amp;EMP) for Development of a Deep Sea Port at Tajpur, West Bengal as detailed in the Tender Document.</b>			
(1) The bidder must upload experience certificate of Preparation of Detailed Project Report for development of Port project executed by him along with the Technical Bid.			
(2) The deposit of cost of Tender Document and E.M.D by the participating			

Bidder will be made by National Electronic Fund Transfer (NEFT)/Real Time Gross Settlement (RTGS) or by Banker's cheque/ Bank Draft/ Pay Order payable to Bhore Sagar Port Ltd and payable at Kolkata within 3 working days of last date of submission of bid at the office of the Chief Engineer, Kolkata Port Trust, for BHORE SAGAR PORT PVT LTD, 15 Strand Road, Kolkata 700001, only to the Account mentioned as at 3.1(B) (Bid Information).

\* Excluding time taken by Authority in providing comments on Draft Reports not exceeding 10 days. As TEFR will require approval of the competent authority, works at item No 6 to 10 of Clause 54 of Tender Document shall be undertaken only after further confirmation of BHORE SAGAR PORT PVT LTD. In case the project is not found viable as per TEFR the contract will be terminated and no further payment will be made to the Consultant.

### 3. TIME SCHEDULE OF TENDER

Sl. No.	Particulars	Date	Time
1	Tender e-Publication date	06.12.2017	11.00 AM
2	Last date for seeking Clarification on-line	18.12.2017	05.30 P.M
3	Date of Pre-Bid meeting at KoPT Head Office at 15 Strand Road, Kolkata 700001	19.12.2017	11.00 A.M
4	Date of uploading response to Clarifications sought	27.12.2017	03.30 P.M
5	(a) Bid Submission start date	28.12.2017	10.00 A.M
	(b) Bid Submission end date	5.1.2018	01.00 P.M
6	Tender Opening Date.	5.1.2018	03.00 P.M

### 3.1 CONTRACT DATA

#### (A) GENERAL INFORMATIONS:

1	Name of the work	Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA & EMP) for Development of a Deep Sea Port at Tajpur, West Bengal
---	------------------	---

2	Employer	Bhor Sagar Port Limited
3	Employer's Representative	CHIEF ENGINEER, KOLKATA PORT TRUST, FOR BHOR SAGAR PORT LIMITED, 15 STRAND ROAD, KOLKATA 700001
4	Contact Persons for queries/ details/data	CAPT. J.J BISWAS, DIRECTOR, MARINE DEPARTMENT, 033-22303214, 9836298620 SRI GOUTAM MANDAL, DY CHIEF ENGINEER, 033-71012364, 98362-98695
5	CRISIL Pre-TEFR	Soft Copy available at the following link  <a href="http://www.kolkataporttrust.gov.in">www.kolkataporttrust.gov.in</a>  under "Important Information"

**(B) BID INFORMATION :**

1	Intended completion period/Time period assigned for completion	14 Months*  *Excluding time taken by Authority in providing comments on Draft Reports not exceeding 10 days. As TEFR will require approval of the competent authority, works at item No 6 to 10 of Clause 54 of Tender Document shall be undertaken only after further confirmation of BHOR SAGAR PORT PVT LTD. In case the project is not found viable as per TEFR the contract will be terminated and no further payment will be made to the Consultant.
2	Last Date & Time of submission of Bid	Upto 1300 hours on 05.01.2018
3	Date of opening	1500 hours on 05.01.2018
4	Earnest Money Deposit and Tender Fee	EMD Rs. 5,00,000/- and Tender Fee Rs. 2500/- to be deposited separately by

		<p>(i) NEFT/RTGS to the Bank Account as detailed below:</p> <p>A/C : Kolkata Port Trust</p> <p>A/c No : 2270020000000018</p> <p>IFSC : IOBA0002270</p> <p>Bank Name Indian Overseas Bank</p> <p>Branch Name : KPT Fairlie Place Branch</p> <p>OR</p> <p>(ii) by Banker's cheque/ Bank Draft/ Pay Order payable to Bhore Sagar Port Ltd and payable at Kolkata within 3 working days of last date of submission of bid at the following address Office of the Chief Engineer, Kolkata Port Trust, for, BHORE SAGAR PORT PVT LTD, 15 Strand Road, Kolkata 700001</p>
5	Bid validity period	180 days from date of opening
6	Currency of Contract	INR
7	Language of contract	English

#### **4.0 Experience & Financial Criteria:**

a) The tenderer should have National/International experience in providing consultancy services in respect of Preparation of Detailed Project Report for development of Port projects in last 7 years ending on 30.11.2017 including Engineering Surveys & Investigations, Planning and Designing of Port layouts, Marine Structures like Breakwaters, Berthing structures including dredging, Cargo Handling Equipment etc.

b) The Bidder should have experience in Preparation and Completion of Detailed Project Report (DPR) with project cost as mentioned below.

i) One single eligible project of estimate cost Rs. 4650 Crores (or)

ii) Two individual eligible projects of estimate cost Rs.2905 Crores each (or)

iii) Three individual eligible projects of estimate cost Rs.2325 Crores each.

c) The tenderer should have an average Annual Turnover of at least Rs.50 crore from consultancy assignments executed during the last three financial years ending on 31.3.2017.

Note:

(1) In case of consortium the combined experience of the consortium members shall be taken into consideration. However, the above mentioned project values should be of individual projects only.

(2) The executed Project cost as specified by the bidder (in case of currency other than Indian Rupees) shall be calculated based on the currency rate prevailing on the date of opening of the bid for evaluation purpose.

#### **5.0 BHOR SAGAR PORT PVT LTD's Right to Accept or Reject Proposal:**

5.1 Bhore 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. The work also may be split up between two or more contractors or 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.

5.2 Canvassing in connection with tenders are strictly prohibited and the tenders submitted by the tenderer(s) who resort to canvassing will be liable to rejection.

5.3 Notwithstanding anything contained in this Proposal Document, Bhore Sagar Port Limited reserves the right to accept or reject any Proposal and to annul the bidding process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, without assigning any reasons.

5.4 Bhore Sagar Port Limited also reserves the right to invite revised Technical Proposals and /or revised Financial Proposals from Bidders with or without amendment of the Proposal document at any stage, without liability or any obligation for such invitation and without assigning any reason.

5.5 Bhore Sagar Port Limited reserves the right to reject any Proposal if:

a) at any time, a material misrepresentation is made or uncovered, or

- b) The Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the proposal.

5.6 Bid documents consisting of e-Tender Notice, Instruction to Bidders for e-procurement, Instruction to Bidders, General Conditions of Contract (GCC), Terms of Reference (TOR) & Format for Financial Bid (BOQ) in prescribed format and the set of terms and conditions of contract and tender details can be seen in the website:

**<https://www.mstcecommerce.com/eprochome/kopt.>**

6. (a) For effecting the Bid, the Bidder will deposit the Tender Paper cost and EMD separately to the A/C mentioned at 3.1(B) (Bid Information) by NEFT/RTGS and obtain the acknowledgement of the said transaction or by Banker's cheque/ Bank Draft/ Pay Order payable to Bhore Sagar Port Ltd and payable at Kolkata within 3 working days of last date of submission of bid at the office of the Chief Engineer, Kolkata Port Trust, for, BHORE SAGAR PORT PVT LTD, 15 Strand Road, Kolkata 700001. A self-signed copy of these documents should be uploaded by the Bidder with the Tender in respect of the documents regarding EMD & Tender Paper cost which will be verified after opening of the Bid.

The Bidder should ensure that the above transaction should be within the stipulated bidding period for that tender. No previous dues of the Bidder shall be adjusted towards the above transaction of tender paper cost and EMD. The Bidder shall not use the same transaction in more than one tender; otherwise his bid will be rejected. The account from which the tender paper cost and EMD will be deposited should be in the name of Contractor/Authorised person of the firm who have digitally signed the Bid. Refund of EMD in respect of unsuccessful Bidders will also be made to that specific account of the Bidder.

(b) The standard form for refund of EMD is available in the Tender documents under heading "APPENDIX C", so as to facilitate the Bidder for applying refund of EMD. Refund of EMD in respect of unsuccessful Bidder will only be made to that account from which it was deposited by the Bidder.

7. The Bid documents will be available in the website: <https://www.mstcecommerce.com/eprochome/kopt> from 6.12.2017 1100 hours to 5.1.2018 up to 13:00 Hours for online bidding.

8. The Bidder must possess compatible Digital Signature Certificate (DSC) of Class-II or Class-III.

9. All Bids are to be submitted online on the Website <https://www.mstcecommerce.com/eprochome/kopt>. No Bid shall be accepted off-line. The Bids shall be received only "on line" on or before 1300 hours on 05.01.2018.



10. The copies of the licence/registration, ESI and EPF registration, GST registration etc as applicable should be uploaded by the bidder.
11. In the e-Tender system, after uploading the Bid; the Bidder should not send any documents (Hard copy) to the Tender inviting Authority before opening of Technical Bid (in case of Two Stage Bid).
12. The documents uploaded by bidder(s) will be scrutinized. In case any of the information furnished by the bidder is found to be false during scrutiny, EMD of defaulting bidder(s) will be forfeited. Punitive action including suspension and banning of business can also be taken against defaulting bidders.
13. After evaluation of bid, all the Bidders will get the information regarding their eligibility/pre-qualification on website. Thereafter, a system generated e-mail confirmation will be sent to all successful Bidders. The Bidders can check the same from the portal.
14. The Price-bid of the successful Bidders (qualified in Technical-bid) will be decrypted and opened on-line, on the scheduled date and after the pre-scheduled time by the Bid Openers with their Digital Signature Certificate (DSC).
15. A separate comparative statement shall be prepared by the Department basing on the scores obtained by the Bidders, by combining both technical and financial scores obtained by each qualified Bidder, and shall be uploaded in the Website for information of the Bidders. The combined score shall finalise the L1 Bidder.
16. Back-out from the offer by the participating Bidder after opening of Technical Bid (in case of two stage bid) or price bid (in case of single stage bid) by the successful Bidder will liable for forfeiture of EMD and debarment of the Bidder from participating in any future tenders.
17. Other details can be seen in the bidding documents.
18. The authority will not be held responsible for any technical snag or network failure during on-line bidding. It is the Bidder's responsibility to comply with the system requirement i.e. hardware, software and internet connectivity at Bidder's premises to access the e-Tender website. Under any circumstances, Bhore Sagar Port Limited shall not be liable to the Bidders for any direct/ indirect loss or damages incurred by them arising out of incorrect use of the e-Tender system or internet connectivity failures.
19. The authority reserves the right to reject any or all tenders without assigning any reasons thereof and shall also not be bound to accept the lowest tender.
20. If the documents as per Notice Inviting Tender (NIT) are not submitted/uploaded along with the bid or shortfalls are noticed, then the offer may be summarily rejected and no correspondence is to be entertained in this regard with any Bidder.

Sd/-

Authorised Signatory,

CHIEF ENGINEER, KOLKATA PORT TRUST,

**INFORMATION TO BIDDERS- TABLE OF CONTENT**

<b>TITLE</b>	<b>Page ref</b>
<b>1. General information.</b>	<b>10</b>
<b>2. Qualifying Requirement.</b>	<b>5</b>
<b>3. About BoQ.</b>	<b>14</b>
<b>4. Bid Validity.</b>	<b>14</b>
<b>5. Earnest Money Deposit (EMD).</b>	<b>14</b>
<b>6. Submission of Offer.</b>	<b>15</b>
<b>7. Submission, Opening &amp; Evaluation.</b>	<b>11,15</b>
<b>8. Award of Contract (AOC).</b>	<b>17</b>
<b>9. Fraud &amp; Corruption.</b>	<b>18</b>
<b>10. Time Schedule.</b>	<b>58,59</b>
<b>11. Right of the Board to accept / reject tender.</b>	<b>6</b>
<b>12. Transfer of tender documents.</b>	<b>19</b>
<b>13. Income Tax</b>	<b>19</b>
<b>14. Taxes and Duties</b>	<b>19</b>
<b>15. Tax recoveries at source.</b>	<b>20</b>
<b>16. Retired Govt. or Company Officer.</b>	<b>20</b>
<b>17. Security requirements.</b>	<b>20</b>
<b>18. Legal Jurisdiction.</b>	<b>21</b>
<b>19. Signing of the Contract.</b>	<b>21</b>
<b>20. General Tender to form part of Agreement.</b>	<b>22</b>
<b>21. Integrity Pact</b>	<b>21</b>

## 21. GENERAL INFORMATION:

This section of the bidding documents provides the information necessary for Bidders to prepare online responsive bids, in accordance with the requirements of the Tender Inviting Authority. It also provides information on, online bid submission, opening, evaluation and contract award.

### 21.1 INSTRUCTIONS FOR ONLINE BID SUBMISSION:

The Bidders are required to submit soft copies of their bids electronically on the <https://www.mstcecommerce.com/eprochome/kopt>, using valid Digital Signature Certificates. The instructions given below are meant to assist the Bidders in registering on the MSTC Portal, prepare their bids in accordance with the requirements and submitting their bids online on the MSTC Portal.

### 21.2 REGISTRATION:

- (i) Bidders are required to enrol on the e-Procurement module of the <https://www.mstcecommerce.com/eprochome/kopt> by using the “Register as Vendor” option available on the home page. Enrolment on the MSTC Portal is free of charge.
- (ii) During enrolment / registration, the Bidders should provide the correct/true information including valid email-id & mobile No. All the correspondence shall be made directly with the contractors/Bidders through e-Mail-id provided.
- (iii) As part of the enrolment process, the Bidders will be required to choose a unique username and assign a password for their accounts.
- (iv) For e-tendering possession of valid Digital Signature Certificate (Class II or Class III Certificates (preferably Class III) with signing key usage) is mandatory which can be obtained from SIFY/TCS/n-Code/e-Mudra or any Certifying Authority recognized by CCA India on e-Token/ Smart Card.
- (v) Upon enrolment on MSTC Portal for e-tendering, the Bidders shall register their valid Digital Signature Certificate with their profile.
- (vi) Only one valid DSC should be registered by a Bidder. Bidders are responsible to ensure that they do not lend their DSCs to others which may lead to misuse and should ensure safety of the same.
- (vii) Bidders can then log into the site through the secured login by entering their user ID/password and the password of the DSC / e-Token.

Note : Those who already enrolled need not to go through this step.

### 21.3 PREPARATION OF BIDS

- (i) For preparation of bid, Bidders shall search the tender from published tender list available on site and download the complete tender document and should take into account corrigendum if any published before submitting their bids.
- (ii) Bidder shall go through the tender document carefully to understand the documents required to be submitted as part of the bid. Bidder shall note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.
- (iii) Any clarifications if required, the Bidders have to go through the contact details given in the tender document.
- (iv) Bidders should get ready in advance the bid documents to be submitted as indicated in the tender document/schedule in PDF formats.

### 21.4 SUBMISSION OF BIDS

- (i) Bidder should log into the site well in advance for bid submission so that he/she upload the bid in time i.e. on or before the bid submission time. All other informations have been furnished at Sl. No.6 (a) of the e-Tender Call Notice.
- (ii) While submitting the bids online, the Bidder shall read the terms & conditions (of MSTC portal) and accepts the same in order to proceed further to submit their bid.
- (iii) In the e-tender system, after uploading the Bid, the Bidder need not to send any documents (hard copy) to the tender inviting authority before opening of Technical Bid (in case of two stage bid) or Price Bid (in case of single stage bid). After opening of the bid, the authenticity of the uploaded documents will be verified by the tender inviting authority.
- (iv) Bidder shall digitally sign and upload the required bid documents one by one as indicated in the tender details according to specified cover.
- (v) Bidders shall note that the very act of using DSC for downloading the tender document and uploading their offers is deemed to be a confirmation that they have read all sections and pages of the tender document without any exception and have understood the complete tender document and are clear about the requirements of the tender document.

(vi) Bidders shall submit their bids through online e-tendering system to the Tender Inviting Authority (TIA) well before the bid submission end date & time (as per Server System Clock). The TIA will not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the Bidders.

(vii) After the bid submission (i.e. after Clicking “Final Submission” in the portal), the Bidders shall take print out of system generated acknowledgement number and keep it as a record of evidence for online submission of bid.

(viii) Bidder should follow the server time being displayed on Bidder’s dashboard at the top of the tender site, which shall be considered valid for all actions of requesting, bid submission, bid opening etc., in the e-tender system.

(ix) All bids submitted by the Bidders would be encrypted using PKI (Public Key Infrastructure) encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer256 bit encryption technology.

## 22. QUALIFYING REQUIREMENT

The Bidder(s) shall furnish documentary proof as below for fulfilling qualifying criteria as above failing which their offer may be summarily rejected:

a) Scanned copy of Firm’s valid Licence/Registration.

b) Scanned Copies of Similar Nature of assignment(s), Completion Certificate(s) from Client having Date of Commencement & Completion, Actual Date of Completion, Contract Value, Actual Payment Received , Contact address of the organisation/ Contact person with Mobile No., Land Phone No., FAX No., Postal Address etc who has issued such certificate(s).

c) Scanned Copies of Audited Balance Sheet/Profit & loss account/ Certificate from Chartered Accountant for last three years ending 31<sup>st</sup> 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.

d) Scanned Copy of Permanent Account Number (PAN) Card,

e) Scanned copy of Power of Attorney certificate on Stamp Paper is to be submitted in case an authorised representative needs has to sign the tender document.

f) Self signed copies of Acknowledgement towards deposit of EMD & Tender Fee. This verified acknowledgement will be a part of agreement in case of the successful Bidder and will be used for refund of EMD in case of unsuccessful Bidder.

g) Application letter as per Annex- I

h) Proposal Security (Earnest Money Deposit) of Rs.5,00,000/- (Rupees five Lakh) only should be deposited through NEFT/RTGS or by Banker's cheque/ Bank Draft/ Pay Order payable to Bhore Sagar Port Limited and payable at Kolkata within 3 working days of last date of submission of bid at the office of the Chief Engineer, Kolkata Port Trust, for Bhore Sagar Port Limited, 15 Strand Road, Kolkata 700001, as mentioned in Clause No.3.1(B) Sl. No.7 of e-TCN. In the event of party withdrawing his proposal before the expiry of 180 days from the due date of submission of proposal, the party shall be cancelled and the amount payable by the Proposal Security shall become forthwith payable to Employer and decision of the Employer shall be final in that behalf. The Proposal Security of unsuccessful party will be discharged /returned as promptly as possible, but not later than 60 days after the expiration of period of proposal validity prescribed by the employer. The Proposal Security in respect of successful party will be released after furnishing of the necessary Performance Guarantee.

i) A forwarding letter confirming validity of the proposal for 180 days and detailing contents of the proposal including list of enclosed documents (with page number).

j) An undertaking that qualification, experience and minimum number of man power proposed to be deployed shall be as stipulated in the proposal document.

k) The Bidders shall submit an undertaking along with their bids stating that they have gone through, all Documents, Annexures, all Corrigenda & Addendums hosted by Bhore Sagar Port Limited on Website and accordingly submitted their bid.

l) A statement supported by documentary evidence establishing fulfilment of all the Minimum Eligibility Criteria by the Bidder/s.

m) Details in respect of background of the party/ies past experience, organizational structure, key personnel, certificates from clients in respect of assignments executed in past, current assignments, CVs of key personnel and details of associate/s likely to be involved in executing this assignment. (The Clients certificate in respect of assignments executed in the past and current assignments in progress should be in English language only, along with the authenticated signature and seal of the client only).

n) Details in respect of proposed approach and methodology, site appreciation, team composition and experience for execution of the "Services" covering broadly all aspects of 'Terms of Reference' enclosed at Annex-I to this proposal Documents.

o) The Proposal Document and compilation of queries/ answers if any with each page initialled by the authorized signatory in token of having been read and accepted by the party/ies.

p) Proposed work programme for the execution of the services, illustrated with bar chart of activities. The composition of the team, the assigned tasks and their timing should be brought out clearly using bar charts and flow diagrams.

q) Manning Schedule to be provided for the service, supported by bar diagrams showing the time proposed for each key professional staff.

r) Undertaking as per Annexure-VII.

NOTE: FIRM(S) MUST NOT INDICATE DIRECTLY OR INDIRECTLY THEIR FINANCIAL PROPOSAL ANY WHERE IN COVER OF TECHNICAL PROPOSAL. ANY SUCH DISCLOSURE SHALL RESULT IN SUMMARILY REJECTION OF WHOLE OF THE PROPOSAL OF THE CONCERNED PARTY/IES.

23. **About BOQ.:** The unit rates in Format for Financial Bid shall be quoted strictly in figures only and macros must be enable to see the word representation of figures.

24. **BID VALIDITY:** The validity of offer shall be 180 days from the date of opening of tender. A bid valid for a shorter period may be rejected by the Purchaser as being non responsive. In exceptional circumstances, prior to expiry of the original tender validity period, the Bhore Sagar port limited may request the Bidder, in writing, for a specified extension in the period of validity. The Bidder may refuse the request without forfeiting its EMD (bid security). The Bidder agreeing to the request will neither be required nor be permitted to modify its tender.

25. **EARNEST MONEY DEPOSIT: -**

25.1 The Bidder shall deposit EMD of Rs.5,00,000.00 (Rupees Five lakh) only through NEFT/RTGS or by Banker's cheque/ Bank Draft/ Pay Order payable to Bhore Sagar Port Limited and payable at Kolkata within 3 working days of last date of submission of bid at the office of the Chief Engineer, Kolkata Port Trust, for, Bhore Sagar Port Limited, 15 Strand Road, Kolkata 700001, as mentioned in Table No.3.1 (B).

25.2 Any Bid not accompanied with proper EMD shall be rejected summarily as being non-responsive and the Price Bid will not be opened.

25.3 The EMD of the unsuccessful Bidders will be returned without interest, after finalisation of tender to the A/C from which the tender paper cost and EMD will be deposited should be in the name of Contractor/Authorised person of the firm

who have digitally signed the Bid. Refund of EMD in respect of unsuccessful Bidders will also be made to that specific account of the Bidder.

**25.4 The EMD (bid security) will be forfeited:**

- a) If the documents submitted by a Bidder proves to be fake at any point of time during execution of work.
- b) If the Bidder adopts corrupt or fraudulent practices and try to influence the Department during tender processing.
- c) In case of a successful Bidder, if the Bidder fails to Sign the Agreement or to deposit the PSD within the specified time limit.

**25.5 Performance Security Deposit (PSD):**

10% (Ten percent) of the Contract value shall be deposited either in the form of a D.D or B.G from any Nationalised / Scheduled Bank / located at **Kolkata** in favour of **Bhor Sagar Port Limited** as Performance Security Deposit (PSD) on acceptance of the tender and before issue of Work Order which will be released after two months of successful & satisfactory completion of the entire job assigned to the Bidder with a further claim period of three months. BHOR SAGAR PORT PVT LTD reserves the right to seek extension of the validity of the PSD, if considered necessary, and the contractor will be duty bound to do so. In case, the contractor fails to extend the validity as requested by BHOR SAGAR PORT PVT LTD, the PSD will be encashed.

**26. SUBMISSION OF OFFER: -**

26.1 The tender shall be submitted online in Two Cover system duly scanned and digitally signed by the authorized representative of the Bidder as follows:(A) Cover -1 (Technical Bid)

Online bids should be submitted containing original scanned copy of following document in Cover-1.

- i) Scanned copy / Acknowledgement of Tender fee deposited.
- ii) Scanned copy / Acknowledgement of Earnest Money Deposit (EMD).
- ii) Online bids should be submitted containing original scanned copies of the documents listed out at Sl. No.2 above under the heading “QUALIFYING REQUIREMENT”.

(B) Cover-2 (PRICE BID)



i) Online bids containing the Price Bids for the work in the Format for Financial Bid [BOQ] format. In the e-Procurement Portal, an intelligent Format for Financial Bid in Microsoft Excel format shall be made available to the Bidder. For Item rate tenders the Bidder shall fill in rates in figures and should not leave any cell blank. The line item total in words and the total amount shall be calculated by the system and shall be visible to the Bidder. He has to only write (type) the figures, the words will be self-generated (Enabling macros).

## 27. SUBMISSIONS, OPENING & EVALUATION:

27.1 The bid should be submitted online at website <https://www.mstcecommerce.com/eprochome/kopt> only, by the due date mentioned in e-Tender Notice. The Server Date & Time as appearing on the website <https://www.mstcecommerce.com/eprochome/kopt> shall only be considered for the cut-off date and time for submission of bids. Offers sent through post, telegram, fax, telex, e-mail, and courier or by any other mode will not be considered. In case of date of opening is declared as holiday tender will be opened on next working day.

27.2 Each Bidder shall submit only one bid for one package. A bid is said to be complete if accompanied by all the documents as per clause 6. The system shall consider only the last bid submitted through the e-Procurement portal. Incomplete and conditional bids shall be rejected outright. A bid shall be deemed complete only if "FINAL SUBMISSION" is made.

27.3 In the e-Procurement Portal, it is allowed to modify the bid any number of times before the final date and time of submission. The Bidder shall have to log on to the system and resubmit the bids as asked for by the system including the price bid. In doing so, the bids already submitted by the Bidder will be removed automatically from the system and the latest bid only will be admitted. But the Bidder should avoid modification of bid at the last moment to avoid system failure or malfunction of internet or traffic jam or power failure. If the Bidder fails to submit his modified bids within the designated time of receipt, the bid already in the system shall be taken for evaluation.

27.4 For this tender withdrawal of bid is not allowed.

27.5 Only those Bidders shall be considered qualified by Bhorsagar Port Limited, who submit requisite EMD, Tender Fee & documents, accept all the terms & conditions of the Tender document unconditionally and meet the qualifying requirement stipulated in the Tender document. The decision of the Bhorsagar Port Limited shall be final and binding in this regard.

27.6 The Bidder shall bear all cost associated with the preparation & submission of its bid and the Bhorsagar Port Limited will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tendering process.

27.7 Bid opening dates are specified during tender creation or can be extended vide corrigendum. Any addendum/corrigendum shall also be notified in the said website <https://www.mstcecommerce.com/eprochome/>kopt

27.8 The Bid openers; who have been pre-defined shall log on to the portal with their respective DSC. Unless all the Officers who have been declared as Opening officers, log on the portal with their DSC the Tender cannot be opened

27.9 After evaluation of bid, all the Bidders will get the information regarding their eligibility on website.

27.10 Date of Price Bid opening would be intimated to the Prequalified Bidders through e-Procurement Portal after Technical Evaluation is completed.

27.11 The Price Bid of the technically qualified Bidders will be opened & evaluated on the notified date & time by the Bid Openers with their Digital Signature Certificate (DSC) in the presence of Bidders or their authorized representative who wish to be present. The Financial bid of the Bidders shall be opened one by one by the bid Openers. The Bidders can view bid opening remotely on their personalized dash board under “Bid Opening (Live)” link.

27.12 The Comparative statement of the tender shall be prepared manually by Bhore Sagar Port Limited to decide the relative positions of the tenderer. The lowest tenderer will be decided based on QCBS system and not by quoted price.

27.13 After evaluation of bid, all the Bidders will get the information regarding their eligibility on website. Thereafter, a system generated e-mail confirmation will be sent to all successful Bidders. The Bidders can check the same from the portal. The Bidder will get the information regarding the status of their Technical and Financial bid put together and ranking of Bidders on website.

## **28. AWARD OF CONTRACT (AOC).**

28.1 The Bidder whose bid has been accepted will be notified for the award by the Bhore Sagar Port Limited prior to expiration of the Bid validity period through the “Letter of Intent”, which will state the sum that the Bhore Sagar Port Limited will pay to the Contractor in consideration of the execution, completion by the Contractor as prescribed in the Contract.

28.2 The Work Order will constitute the formation of the Contract until the Formal Agreement is signed.

28.3 The Bidder shall promptly check their e-mailbox registered with MSTC Portal for receipt of any information/clarification/ correspondence in respect of their bid. Bhore Sagar Port Limited shall not be responsible for non-receipt/failure of e-mail to the Bidders.

28.4 If any of the information furnished by the Bidder is found to be incorrect, the Bid/ contract is liable to be rejected/terminated and the EMD will be forfeited.

28.5 Bhore Sagar Port Limited reserves the right to cancel the tender without assigning any reason thereof.

28.6 Conditional offers are liable for rejection.

28.7 Bids from those Bidders who have not submitted their offer as per e-Tender Notice will not be considered.

## **29. FRAUD AND CORRUPTION:**

29.1 BHORE SAGAR PORT PVT LTD will reject a proposal for award if it is found that the Bidder recommended for award has been engaged in corrupt or fraudulent practices in competing for the contract in question.

29.2 Canvassing whether directly or indirectly, in connection with tenders is strictly prohibited & the tenders submitted by the contractors who resort to canvassing will be liable for rejection

29.3 The details of work to be carried out and its scope are given in the “Tender Document” of these documents, which also indicate a brief description of the Project where work is to be executed. The tenderers are advised to study the same carefully before tendering and they shall be deemed to have full acquainted themselves with the same.

29.4 The Bidders; in their own interest, are advised to inspect and examine the site and its surrounding and satisfy themselves, before submitting their tenders, in respect of the site conditions including but not restricting to the following which may influence or effect the work or cost thereof under the contract.

29.5 The Contractor shall be debarred for any period of time as decided by the Bhore Sagar Port Limited for the following reasons.

(i) If the contractor fails to deposit PSD within the stipulated period as stated in the letter of intent.

(ii) If the contractor fails to commence the work on or before the scheduled date stated in the work order.

(iii) Violates any important condition of contract.

29.6 The Contractor shall be de-listed from the Contractor List for the following reasons:

- (i) If the contractor fails to execute the work or executed it unsatisfactorily.
- (ii) If found to have submitted forged/false certificate/documents during the enlistment/tender for any work.
- (iii) If abandons the work during execution at any stage.
- (iv) Has already been debarred for other reasons by TIA.
- (v) Any other reason which in view of enlisting authority is adequate for delisting the contractor.

### **30. TIME SCHEDULE:**

The time allowed for carrying out the work is 14 (Fourteen) Months from the date of LOA. The tenderer shall also submit along with his tender a bar chart showing commencement and completion times of various sections of the proposed works including supply and delivery of all important items of his assignment.

### **31. TRANSFER OF TENDER DOCUMENTS:**

Transfer of tender documents processed by one intending tenderer to another is not permissible. Tenders should be furnished by the contractors/firms in whose favour registration has been done.. Tender(s) furnished in any other name(s) than mentioned in the tender paper will be rejected outright.

### **32. INCOME TAX :**

Acknowledgement for filling of Returns under Income Tax Rules may be uploaded for last 3 years ending on 31<sup>st</sup> March 2017.

### **33. TAXES AND DUTIES:**

33.1 The prices quoted shall be inclusive of all statutory taxes and duties and/or other charges levied by any Central/ State/local authorities but excluding GST. GST shall be paid by BHOR SAGAR PORT PVT LTD extra on actual on production of documentary evidence and shall not be considered for evaluation of the bids.

33.2 Supplier/service provider to confirm that the GST amount charged in invoice is declared in its returns and payment of taxes is also made.

33.3 The Supplier/ Service Provider agrees to comply with all applicable GST laws, including GST acts ,rules, regulations, procedures, circulars & instructions there under applicable in India from time to time and to ensure that such compliance is done within the time prescribed under such laws. Supplier/Service Provider should ensure accurate transaction details, as required by GST laws, are

timely uploaded in GSTN. In case there is any mismatch between the details so uploaded in GSTN by Supplier/ Service Provider and details available with BHOR SAGAR PORT LIMITED, then payments to Supplier/Service Provider to the extent of GST relating to the invoices/s under mismatch may be retained from due payments till such time BHOR SAGAR PORT LIMITED is not sure that accurate tax amount is finally reflected in the GSTN to BHOR SAGAR PORT PVT LTD's Account and is finally available to BHOR SAGAR PORT LIMITED in terms of GST laws and that the credit of GST so taken by BHOR SAGAR PORT LIMITED is not required to be reversed at a later date along with applicable interest.

33.4 BHOR SAGAR PORT LIMITED has the right to recover monetary loss including interest and penalty suffered by it due to any non-compliance of tax laws by the supplier/service provider. Any loss of input tax credit to BHOR SAGAR PORT LIMITED for the fault of supplier shall be recovered by BHOR SAGAR PORT LIMITED by way of adjustment in the consideration payable.

33.5 Supplementary invoices/Debit note/credit note for price revisions to enable BHOR SAGAR PORT LIMITED to claim tax benefit on the same shall be issued by you for a particular year before September of the succeeding Financial Year.

33.6 The purchase order/ work order shall be void, if at any point of time you are found to be a black listed dealer as per GSTN rating system and further no payment

#### **34. TAX RECOVERIES AT SOURCE :**

Income Tax, or any other taxes, duties service charges, rents, etc. as may be deductible would be deducted at source from the running payments of the contractor/ firm by Bhore Sagar Port Limited at the time of effecting payments as contained in the provisions of Income-Tax Act and other enactment and provisions of local bodies in force from time to time.

#### **35. RETIRED GOVERNMENT OR COMPANY OFFICERS:**

No Engineer of Gazetted rank or other gazetted officer employed in Engineering or Administrative duties in Engineering Department of the State/Central Government or the Bhore Sagar Port Limited is allowed to work as an employee of contractor/contractor for the period of two years after his retirement from Government service or from the employment of the Bhore Sagar Port Limited without the previous permission of the State/Central Government/Bhore Sagar Port Limited, as the case may be. The contract, if awarded, is liable to be cancelled if either the contractor or any of his employee is found at any time to be such a person, who had not obtained the permission of the State/Central

Government or the Bhore Sagar Port Limited as aforesaid, before submission of tender or engagement in the contractor's service as the case may be.

#### **36. SECURITY REQUIREMENTS:**

Where the works are to be carried out within the prohibited area of the Port, the contractor(s) is required to obtain necessary permits/passes for his men and materials and vehicle for entering the Security Zone at his own cost on deposit of required fees with Bhore Sagar Port Limited

He is also required to comply with the Port Security Requirement as may be notified from time to time.

#### **37. LEGAL JURISDICTION :**

All disputes are subject to exclusive jurisdiction of courts at Kolkata, only.

#### **38. SIGNING OF THE CONTRACT:**

The successful tenderer shall be required to execute an agreement in the proforma attached with the tender documents as ANNEXURE with Stamp paper of proper value within 15 days from the date of issue of the notice of acceptance of tender. In the event of failure on the part of successful tender to sign the agreement within the above stipulated period the Earnest Money deposited by him be forfeited and the acceptance of the tender shall be considered as cancelled.

#### **39. GENERAL TENDER TO FORM PART OF AGREEMENT:**

This general Tender Notice, Instructions to tenderers shall be deemed to form part of the Agreement.

#### **40. INTEGRITY PACT**

The bidder will have to enter into an Integrity Pact with the Bhore Sagar Port Limited as per format enclosed at Appendix D on a Rupees 50 Non Judicial Stamp Paper. All blank spaces to be filled in as appropriate. For implementation of Integrity Pact, Bhore Sagar Port limited would appoint an Independent External Monitor (IEM) whose name would be communicated in due course.

Sd/-

**CHIEF ENGINEER, KOLKATA PORT TRUST,  
FOR  
BHORE SAGAR PORT LIMITED,  
15 STRAND ROAD, KOLKATA 700001**

## NOTICE INVITING PROPOSAL

### INDEX

Description
1 Notice Inviting Proposal
2 Instructions and Procedures for Proposal
3 Criteria for Evaluation of Proposals
4 General Conditions
5. Terms of Reference.
6 Annexe - I- Application letter
7 Annexe - II Financial Proposal
8 Annexe - III - Form of Bank Guarantee for Performance Security.
9 Annexe-IV - Form of Agreement.
10 Annexe-V -Format in case of Joint Venture/consortium
11 Annexe-VI (A) and (B) Power of Attorney
12 Annex-VII Undertaking
13 Annex-VIII Joint Bidding Agreement
14 Appendix A - Key Personnel and Sub-consultant
15 Appendix B - Hours of work for key personnel
16. Appendix C Refund of EMD
17. Appendix D Integrity Pact
18. Appendix E BOQ format
19. Appendix F Drawing

## **42. NOTICE INVITING PROPOSAL**

Bhor Sagar Port Limited invites e-Tenders in two cover system from experienced Firms for Consultancy Services for Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep Sea Port at Tajpur, West Bengal. The salient features are as under.

### **42.1. THE PORT:**

Bhor Sagar Port Limited (BHOR SAGAR PORT PVT LTD) a Special Purpose Vehicle (SPV) with share of Kolkata Port Trust (KoPT) and Govt. Of West Bengal is in the ratio of 74:26 (hereinafter to be called the Authority),

### **42.2 THE PROJECT:**

BHOR SAGAR PORT PVT LTD seeks the services of a qualified firm (hereinafter to be called the Consultant) for Preparation of The Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep Sea Port at Tajpur, West Bengal.

42.3 The Consultancy proposal is to be submitted in two cover system. The first cover to contain "Technical proposal" and second cover the "Financial proposal".

The objective of this consultancy service is to provide qualitative consultancy services for preparation of TEFR, Detailed Project Report for green field project.

It is the responsibility of the consultants to obtain various clearances from the State as well as Central Government and other statutory bodies.

## **43. Eligible Bidders:**

43.1 The Bidder may be a single entity or a group of entities (hereinafter referred to as Consortium), coming together for providing the Services. The term Bidder used hereinafter would therefore apply to both a single entity and a consortium.

43.2 The Tenderer shall satisfy the Minimum Eligibility Criteria as under:

a) The tenderer should have National/International experience in providing consultancy services in respect of Preparation of Detailed Project Report for development of Sea Port particularly green field project including Engineering Surveys & Investigations, Planning and Designing of Port layouts, Marine Structures like Breakwaters, Berthing structures including dredging, Cargo Handling Equipment etc.



b) The Bidder should have experience in Preparation and Completion of Detailed Project Report (DPR) with project cost as mentioned below.

i) One single eligible project of estimate cost Rs.4650 Cr. (or)

ii) Two individual eligible projects of estimate cost Rs.2905 Crores each (or)

iii) Three individual eligible projects of estimate cost Rs.2325 Crores each.

Note: (1) In case of consortium the combined experience of the consortium members shall be taken into consideration. However, the above mentioned project values should be of individual projects only.

(2) The executed/ongoing Project cost as specified by the bidder (in case of currency other than Indian Rupees) shall be calculated based on the currency rate prevailing on the date of opening of the bid for evaluation purpose.

c) The tenderer should have an average annual turnover of at least Rs.50 crore from consultancy assignments during the last three financial years

d) The tenderer must submit names / qualification, experience of the experts/ key personnel who would be engaged for this assignment along with CVs as indicated in Terms of Reference.

Note: Indian subsidiary of an International company can submit the bid by using the experience / references of their parent company to fulfil the Minimum Eligibility Criteria, provided the bidder gives authorization from parent company. The party must submit, with its Technical Proposal, the documentary evidence regarding fulfilment of all the above criteria.

#### 44.0 JOINT VENTURES / CONSORTIUM AND OTHER FORMS OF ASSOCIATION

In case the tender is submitted in joint venture/consortium, the Bidder shall submit the following confirmation along with their offer submitted for this tender.

i) All joint venture agreements / consortium agreements, technical collaboration agreement shall ensure that all parties of the joint venture/consortium are individually and jointly responsible for the tender conditions and such agreements are legally valid.

ii) Joint venture/consortium should be in the nature of legally acceptable agreements and such agreements should be notarized.

iii) Such joint venture/consortium agreement should contain explicitly the scope and responsibilities of all the partners in the joint venture/consortium in

terms of financial and technical commitments/contribution. The JV/consortium should be equally, severally and jointly responsible.

iv) One of the members of the consortium shall be authorized as being in-charge (lead member), and this authorization shall be evidenced by a power of attorney duly signed by the authorized signatories of the consortium Members as per the format enclosed in the tender document as (**Annexure-VIA/VIB**).

v) The validity of the joint venture/consortium agreement entered upon on the award of Letter of Acceptance (LOA) by BHOR SAGAR PORT PVT LTD should continue for entire period of contract as specified in the tender. All such agreements shall be irrevocable for the above periods.

vi) Firms with at least 26% equity holding each shall be allowed to jointly meet the eligibility criteria.

vii) Where the bidder is a consortium the average annual financial turnover of the individual members forming the consortium shall be submitted.

viii) The entity processing the tender must be a member of the consortium submitting the tender.

ix) It is clarified that an unsuccessful bidder or JV/Consortium shall not be permitted to join a successful JV/Consortium whose bid is accepted at a later date.

x) 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.

#### **44.1 FURTHER CONDITIONS FOR JV/CONSORTIUM:**

Intending tenderer(s), as Consortium, is eligible to participate in the tender. The term “Tenderer” used in this document would apply to either a Single Entity or a group of entities, i.e. a Consortium. Further, the Tenderer may

be a natural person, private entity, government owned entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in this tender document.

i) The Tenderer shall not have a conflict of interest that affects the Tendering Process. Any Tenderer found to have a **Conflict of Interest** shall be disqualified. A Tenderer shall be deemed to have a **Conflict of Interest** affecting the Tendering Process, if:

ii) The Tenderer, its Member or Associate (or any constituent thereof) and any other Tenderer, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Tenderer, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Tenderer, its Member or Associate, as the case may be) in the other Tenderer, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act 1956, or any of its subsequent amendment. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:

iii) Where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and

iv) Subject always to sub-clause (iii) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis ; provided, however, that no such shareholding shall be reckoned under this sub-clause.

v) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary;  
**OR**

vi) A constituent of such Tenderer is also a constituent of another Tenderer;  
**OR**

vii) Such Tenderer, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Tenderer, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Tenderer, its Member or any Associate thereof; **OR**

viii) Such Tenderer has the same legal representative for purposes of this Tender as any other Tenderer; **OR**

ix) Such Tenderer, or any Associate thereof has a relationship with another Tenderer, or any Associate thereof, directly or through common third party/parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Tender of either or each other.

x) A Tenderer shall be liable for disqualification if any legal, financial or technical adviser of BHOR SAGAR PORT PVT LTD in relation to the Tender is engaged by the Tenderer, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Tender. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Tenderer, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this Tender. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the contract.

**Explanation:** In case a Tenderer is a Consortium, then the term Tenderer, as used above, shall include each Member of such Consortium.

**Note:** Notwithstanding anything to the contrary contained in this tender document, in the event of any member of any Consortium suffering from a Conflict of Interest, the offer of such consortium shall be treated as disqualified. However, in the event of similar situation arising / detected after placement of LOI, the same shall have to be addressed and resolved by the Consortium, failing which the contract, if entered into, shall be terminated.

In this regard, it must be borne in mind that suppression of such Conflict of Interest, if detected later, shall not absolve the Consortium of its responsibility and appropriate action shall be initiated in terms of the provision of the tender.

The Tenderer(s) shall have valid documents as listed in various clauses of this tender document including those given at Clause 6.0 and submit the same in the manner as stipulated.

## **44.2 Technical & Financial Capability.**

The tenderer (whether a single entity or a consortium) must satisfy pre-qualification criteria as stipulated at Clause- 3.0.

### **44.3 Assessment of eligibility:**

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 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.

44.3.2 The entity claiming the capability should have held, in the company owning the eligibility, a minimum of 26% equity during the entire period for which the eligible experience is being claimed.

44.3.3 Experience of any activity relating to an eligible activity shall not be claimed by more than one member of a consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.

44.3.4 The Tenderer shall submit a Power of Attorney as per format given at **Annexure-VIA** or **VIB** as the case may be, authorizing the signatory of the Tenderer to submit the tender.

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:

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;

b) An individual (single entity) Tenderer participating in the instant tender shall not be a member of any other Consortium participating in the instant tender; further, a member of a particular Consortium shall neither submit any

tender individually nor shall be a member of any other Consortium participating in the instant tender;

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:

i) Convey the intent to form an SPV with 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;

ii) Clearly outline the proposed roles and responsibilities, if any, of each member; Commit the minimum equity stake to be held by each member;

iii) Commit the minimum equity stake to be held by each member;

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;

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

vi) Include a statement to the effect that all members of the Consortium shall be liable and responsible jointly and severally for all obligations of BHOR SAGAR PORT PVT LTD in relation to the contract throughout the contract period.

vii) Except as provided under the Tender Document, including its Addendum, if any, there shall not be any amendment to the said JBA without the prior written consent of BHOR SAGAR PORT PVT LTD.

44.3.6 The Single Entity participating in the tender or all the members of the Consortium participating in the tender must not have been debarred by the Central / State Government or any Entity controlled by them or any other legal authority for participating in any tender / contract / agreement of whatever kind. An undertaking in this regard shall be given by the Tenderer in the Covering Letter as per **Annexure- I**.

44.3.7 A Tenderer including any Consortium Member or Associate shall, in the last 3 (three) years ending on the day preceding to the day of issue of the tender, 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 against the Tenderer, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Tenderer, Consortium Member or Associate as per **Annexure-I**.

44.3.8 In computing the Technical Capability and Financial Capacity of the Tenderer / Consortium Members, the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

**Note:** For purposes of this Tender, 'Associate' means, in relation to the Tenderer/Consortium Member, a person who controls, is controlled by, or is under the common control with such Tenderer/Consortium Member. As used in this definition, the expression 'control' means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

#### **44.4 Change in composition of the Consortium**

44.4.1 Change in the composition of a Consortium shall not be permitted by BHOR SAGAR PORT PVT LTD either during the 'Techno-commercial Evaluation Stage' [i.e., from the 'date of issuance of Tender.' up to the 'date of notification of the techno-commercially valid tenders'] or during the 'Price-Evaluation Stage' [i.e., from the 'date of notification of the techno-commercially valid tenders' up to the 'date of placement of Letter of Intent (LoI)']. Changes in consortium may be considered after submission of draft TEFR at the discretion of BHOR SAGAR PORT PVT LTD:

44.4.2 The reason for such change with proof, if applicable, shall be submitted along with the application. Request for change without any valid reason will not be entertained by BHOR SAGAR PORT PVT LTD.

44.4.3 The Lead Member continues to be the Lead Member of the Consortium;

44.4.4 In case of substitution, the substitute is at least equal, in terms of Technical & Financial Capability, to the Consortium Member who is sought to be substituted. In this regard, documents shall have to be furnished to establish that the proposed member is in possession of experience and having financial health at least equal to that of the substituted member during the period as stipulated in the pre-qualification criteria of the tender. (ii). In case of removal of any

member without substitution, the remaining member(s) shall fulfil the pre-qualification criteria of the tender. (iii). In case of induction of any additional member(s), documents shall have to be furnished to establish experience and financial health of the proposed additional member.

44.4.5 The new Member(s) expressly adopt(s) the Tender already made on behalf of the Consortium as if it/they were a party to it originally, and is/are neither a Tenderer/Member/Associate of any other Consortium participating in this tender nor a single entity having participated in this tender.

44.4.6 Approval for change in the composition of a Consortium shall be at the sole discretion of BHOR SAGAR PORT PVT LTD and must be approved by BHOR SAGAR PORT PVT LTD in writing.

**Note:** If the Tenderer is a Consortium, then the entire Consortium may be disqualified / rejected. If such disqualification / rejection occurs after the tenders have been opened and the Lowest Tenderer gets disqualified / rejected, then the Authority reserves the right to take any such measure as may be deemed fit at the sole discretion of BHOR SAGAR PORT PVT LTD, including annulment of the Tendering Process.

In case the applicant is a Joint venture / consortium it is to be limited to three partners subject to each of them satisfying some part or all Minimum Eligibility Criteria. The Proposal shall be accompanied by a certified copy of legally binding Joint Venture agreement (format prescribed in Annex-V) signed by all firms to the joint venture/consortium confirming the following:

## 45. INSTRUCTIONS AND PROCEDURE OF PROPOSAL

### 45.1 INTRODUCTION:

#### 45.1.1 Background:

Kolkata Port is the earliest major port in the country still remains the premier port which has been rightly called the gateway to Eastern India and is the guiding factor to trade and commerce of vast hinterland comprising the entire Eastern India including Bihar and Eastern Uttar Pradesh and the two land-locked Himalayan Kingdoms of Nepal and Bhutan. The Commissioners for the Port of Kolkata ran the port till January 1975 when Major Port Trusts Act, 1963, came into force.



Kolkata Port is the only riverine Major Port in India. It has two dock systems - Kolkata Dock System at Kolkata and Haldia Dock Complex at Haldia situated at 232 kms and 125 kms up-stream from the Sea respectively.

In view of Draft restrictions, BHOR SAGAR PORT PVT LTD formed an SPV namely Bhor Sagar Port Limited for setting up two deep drafted ports one at Sagar and the other at Tajpur near Digha, in the coast of West Bengal. As per plan Tajpur port will be set up in the first phase.

45.2 To obtain adequate information on the local conditions and to understand regarding the scope of work to be carried out in full; the Bidders shall visit the project site before submitting a proposal. The programme of visit shall be informed well in advance to BHOR SAGAR PORT PVT LTD authorities to make appropriate arrangement to visit the related areas. Consultants must fully acquaint themselves of local conditions and take them in to account in preparing their proposal.

45.3 Pre-Proposal/Tender Meeting and Amendment to Proposal Document:

45.3.1 The consultants or his official representative is advised to attend a Pre-proposal/ Tender meeting which will be convened at the office of the BHOR SAGAR PORT PVT LTD, 15 Strand Road, Kolkata 700001 on 19.12.2017 at 11:00 hours.

45.3.2 The purpose of the meeting will be to clarify issues and to answer queries on any matter that may be raised at that stage relating to the subject project.

45.3.3 Bidders requiring any clarification of the proposal document must notify the same online not later than 18.12.2017 at 17:30 hours. The reply to the queries shall be furnished by the employer online. No correspondence shall be made by post or facsimile.

45.3.4 The compilation of questions raised and answers given shall be furnished expeditiously to all Bidders on website. Any modification of the tender documents which may become necessary as a result of the pre-tender meeting shall be made by the Employer exclusively through the issuance of an addendum in website and not through the minutes of the pre-tender meeting.

45.3.5 At any time before the submission of proposals, the Employer may, for any reasons, whether at its own initiative or in response to a clarification requested by an invited consulting firm, modify the documents by amendment. The amendment will be notified queries to be uploaded on Website to all invited consulting firm and will be binding on them. The Employer may at its discretion extend the deadlines for the submission of proposals.

#### 45.4 Scope of the Proposal :

BHOR SAGAR PORT PVT LTD intends to invite bids from experienced Firm(s) to provide consultancy services for Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep Sea Port at Tajpur, West Bengal, refer Terms of Reference (TOR) as in Tender Document, hereinafter referred to as "the Services".

#### 46. OTHER TERMS & CONDITIONS :

##### 46.1 Preparation and Submission of Proposal

46.1.1 The Proposal and all related correspondence and documents should be written in the English language. Supporting documents and printed literature furnished by Bidder with the Proposal may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language. Supporting documents, which are not translated into English, may not be considered. For the purpose of interpretation & evaluation of the Proposal, the English language translation shall prevail.

##### 46.1.2 "Technical Proposal"

Consultants are expected to examine all terms and instructions included in the document. Failure to provide all requested information will be at consultant's own risk and may result in rejection of proposal. The technical proposal shall contain the documents as listed at Clause No.4.0 of Tender Document.

##### 46.1.3 "Financial Proposal".

Bidder/s shall indicate the total lump sum charges/fees (in Indian Rupees) to be paid by the Employer for this service/ assignment in the Financial Proposal format enclosed as Annex -III in the Proposal Document. This lump sum charges/fees shall be inclusive of all taxes, incidentals, overheads, travelling expenses, printing and binding of reports, expenditure related to presentations to be made during the execution of assignment, sundries and all other expenditure for execution of this services as per "Terms of Reference", enclosed at Annex-I to the Proposal Document and also the tasks the consultant may think should be carried out in order to meet the objectives of the assignment. The Employer will pay prevalent GST to consultant separately.

Note:

a) The lump sum fees/charges quoted by the Bidder shall be paid as stage- wise payments as prescribed in Financial Proposal (Annex -II)

b) Income Tax and Professional Tax, any other tax as per Statutory Provisions of Govt. of India and Kolkata State shall be deducted by the Employer from each invoice. A certificate in this regard shall be furnished by the Employer.

NO COUNTER CONDITIONS SHOULD BE INCLUDED ANYWHERE IN THE PROPOSAL. CONDITIONAL PROPOSAL SHALL BE SUMMARILY REJECTED.

#### 46.1.4 Proposal Due Date

46.1.5 Online proposal should be submitted upto 13:00 hours Indian Standard Time (IST) on 05.01.2018 in the manner and form as detailed in this Proposal Documents. Proposals submitted by facsimile transmission, telex or e-mail will not be acceptable.

46.1.6 BHOR SAGAR PORT PVT LTD, at its sole discretion, may extend the Proposal Due Date by issuing an Addendum if any.

#### **47.0 Payment for Consultancy services (Fees in Indian Rupees):**

The Consultancy charges/fees for Consultancy services shall be expressed in Indian Rupees only and the payment shall also be made in Indian Rupees by the Employer.

#### 48.0 Time for completion:

The time period for the assignment is 14 months (Excluding the time taken by Authority in providing comments on Draft Reports not exceeding 10 days. As TEFR will require approval of the competent authority, works at item No 6 to 10 of Clause 54 of Tender Document shall be undertaken only after further confirmation of BHOR SAGAR PORT PVT LTD. If assignment is completed in all respect before scheduled period, the contract of consultancy may be foreclosed. In case of delay of assignment, the contract of consultancy may be extended suitably, at the discretion of Employer.

The assignment may be foreclosed at any stage, at the discretion of Employer without assigning any reasons whatsoever. Consultant does not reserve any right to claim compensation whatsoever for foreclosure of consultancy contract by Employer. In case of foreclosure, percentage payment due up to the completed stage will be made as indicated in the Financial Proposal. In case assignment forecloses in the middle of any indicated stage as per financial proposal, pro-rata payment shall be made for the completed services as agreed mutually.

**NOTE: EMPLOYER for the purpose of this contract will be BHOR SAGAR PORT LIMITED and / or its authorized officer.**

#### **49. Scrutiny and Evaluation of Proposals:**

#### 49.1 Preliminary Scrutiny:

In the first instance the Tender Committee of BHOR SAGAR PORT PVT LTD appointed for opening of proposals shall ascertain the availability of proper Proposal Security. In case a proposal is received without the requisite and proper Proposal Security, it shall be summarily rejected and the second stage Bid of such proposal containing Financial Proposal shall not be opened.

#### 49.2 Responsiveness of Proposals:

The proposals received on time, accompanied by the EMD and cost of Tender document as specified in this tender will only be examined for responsiveness.

#### 49.3 Scrutiny of Technical Proposals:

Responsive bids shall be examined in detail for their technical contents. Compliance to detailed Terms of Reference taking into account proposed Approach and Methodology, Experience of Bidder, proposed work plan for implementation, team composition etc. with reference to adequacy, acceptability and understanding of the Bidders shall be checked.

In the process of this examination, some clarifications may become necessary. These shall be sought and furnished in writing. However, the basis of proposal shall not be permitted to be changed/ altered either to fulfil minimum eligibility criteria or to make a non-responsive proposal responsive or to qualify for meeting the technical proposal parameters. The proposals which are found deficient or defective or unacceptable due to any reason shall be treated as non-responsive.

#### 49.4 Opening and evaluation of second cover viz financial Proposal.:

Financial Proposal of responsive Bidders who are found acceptable on scrutiny of technical contents and satisfy the criteria for evaluation, as specified in Clause-4 of Proposal Document will be opened on line. The date and venue of opening of financial proposal will be conveyed to qualified Bidders.

49.5 Financial proposal with any counter conditions or ambiguous remarks shall be rejected.

#### 49A Award of Assignment /Services:

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.

#### **49A.1 Confirmation of receipt:**

Consultants shall acknowledge the Employer by facsimile/ post/courier the receipt of Letter of award and confirm the acceptance of the proposal.

#### **49A.2 Performance Security:**

Within 21 days of issue of letter of award from the Employer, the successful Firm(s) shall furnish to the Employer a Performance Security in the form of a Bank Guarantee of a scheduled / nationalized bank having branch at Kolkata for an amount equivalent to 10% of the award cost of assignment as per the draft annexed (Annex - IV) to the Proposal Document. Failure of the successful party to lodge the required bank guarantee shall constitute sufficient grounds for the termination of contract and enforcement of Bank Guarantee towards Proposal Security.

The performance security shall remain in force until six months from the date of issue of completion certificate of assignment and will be released thereafter. The obtaining of such guarantee (and the cost of guarantee), shall be at the expense of the party/ies. E.M.D will be refunded without any interest after submission of Performance Security.

#### **49A.3 Signing of Agreement :**

Within one month of date of issue of Letter of Award and after submission of Bank Guarantee towards performance security (as per clause 49A.2), successful party shall simultaneously sign formal agreement as prescribed in Annex-V of Proposal Document

#### **49A.4 Release of Proposal Security:**

Proposal Security shall be released as under:

**49A.5 Proposal rejected during scrutiny:** Two weeks after the date of intimation of rejection of proposal.

**49A.6 Unsuccessful Proposals:** One month after award of assignment to successful Bidder.

**49A.7 Successful Proposal:** Two weeks after furnishing of Performance Security and signing of formal agreement.

#### **49A.8 Extension of validity of proposal:**

If it becomes necessary, BHOR SAGAR PORT PVT LTD may request the parties, in writing, to extend validity of proposals. The parties shall have the right to refuse such extension without forfeiting their proposal security. In case a party extends the validity then it shall also extend the validity of its Proposal Security for corresponding period.

## **49B. CRITERIA FOR EVALUATION:**

### **49B.1 Technical Proposal Evaluation (Stage-1)**

For the purpose of Qualification, the Bidders should satisfy the minimum eligibility criteria as prescribed in "Notice Inviting Proposal/Tender". In addition the Bidder may note the following.

49B.1.1 Details in respect of Clause 2.0 of information to the bidders for qualifying requirement are to be furnished.

49B.1.2 BHOR SAGAR PORT PVT LTD would evaluate the Technical Proposal/Tender in order to qualify Bidders for Technical Stage. Bidders who qualify the minimum eligibility criteria as brought out in the Notice inviting Proposal/Tender and as detailed in Clause-2.0 of information to the bidders Qualifying requirement only will be considered for Price Bid stage evaluation namely, Financial Proposal evaluation.

49B.1.3 If the Bidder is a consortium, evaluation will be made in line with stipulations in clause 4.0 of Notice inviting proposal.

49B.1.4 A two stage procedure will be adopted in evaluating the proposals: (i) a Technical evaluation, which will be carried out prior to opening any financial proposal and (ii) a financial evaluation On each of the parameters under the technical score, the Bidder would be required to achieve a minimum of 60% of the Technical Score assigned to that parameter so as to get included in the computation of the Total Technical Score for the Bidder and to be qualified. The maximum achievable Total Technical Score for every Bidder would be 100. The party/ies who have secured minimum Total Technical score of 70 points will be declared as qualified for opening of Financial Proposal.

49B.1.5 The evaluation committee/Tender Committee appointed by the Employer will carry out its evaluation applying the evaluation criteria and point system specified below:

49B.1.6 The scoring criteria to be used for evaluation shall be as follows.

Sl No	Parameter	Maximum Marks	Criteria
1	Relevant Experience of the bidder	40	60% of the maximum marks will be awarded for one eligible assignment as defined under Clause-3(b) Experience and Financial criteria under e-Tender Call Notice and 40%* for additional eligible assignments. One eligible assignment means one work of 80% /two works of 50% each / three works of 40% each.
2	Proposed	5	Evaluation will be based on the quality of

	Methodology and Work Plan		submissions.
3	Relevant Experience of the Key Personnel [Total of (a) to (g)]	55	60% of the score will be awarded to an Applicant/ Key Personnel for fulfilling the eligibility criteria of a minimum number of Eligible Assignments and only projects exceeding the eligibility criteria shall qualify for scoring the balance 40%* on Proportionate basis. However, for assigning scores in respect of the size and quality of Eligible Assignments, all Eligible Assignments of the Applicant/Key Personnel shall be considered.
a	Team Leader cum Project Coordinator	20	
b	Technical Expert	10	
c	Mechanical Expert	5	
d	Traffic Expert	5	
e	Economist / Financial Expert	5	
f	Environmental Expert	5	
g	Geotechnical Expert	5	
	Grand Total (1+2+3)		

\* While awarding marks for the number of Eligible Projects, the Applicant or Key Personnel, as the case may be, that has undertaken the highest number of Eligible Assignments shall be entitled to the maximum score for the respective category and all other competing Applicants or respective Key Personnel, as the case may be, shall be entitled to a proportionate score.

Note: The values of Projects indicated for the purpose of eligibility criteria for experience under Clause-4.0 of e-TCN are not applicable for the experience of key personnel under above Clause No.49B.1.6.

49B.1.7 The consultant shall submit the required credentials along with his technical submission for fulfilling the minimum Eligibility Criteria specified in the document.

#### 49B.2 Evaluation of Financial Proposal

Financial bid shall be opened on a date to be fixed later and intimated to all the responsive and eligible Bidders to enable them to be present in the opening if they so wish and the bids will be opened in the office of the (BHOR SAGAR PORT PVT LTD). The price bid of all the responsive and eligible Bidders shall be opened.

49B.3 After opening of financial proposals, the lowest financial proposal (FM) will be given a financial score (SF) of 100 points. The financial scores of other proposals will be computed as follows:

$$SF = 100 \times FM/F$$

(F = Amount of financial proposal)

Proposals will finally be ranked according to their combined Technical (ST) and Financial

(SF) scores as follows:

$$S = ST \times Tw + SF \times Fw$$

Where S is the combined score, and Tw and Fw are weight assigned to Technical Proposal and Financial Proposal that shall be 80% and 20%, respectively. The qualified bidder who secures highest combined score would be declared as the successful Bidder. In the event that two or more bidders secure same combined score, the work will be awarded to the lowest price bidder.

Example for Score Evaluation.

- ❖ Suppose L1 bidder quotes Rs.80/-, it shall be treated as FM.
- ❖ In this case, 'F' is also Rs.80/-.
- ❖ As per the formulae

$$SF = 100 \times FM/F$$

(F = Amount of financial proposal)

Proposals will finally be ranked according to their combined Technical (ST) and Financial (SF) scores as follows:

$$S = ST \times Tw + SF \times Fw$$

Applying the formulae, Financial Score for L1 bidder,

$$SF = 100 \times 80/80 = 100 \text{ (SF shall be treated as 100 points for L1 bidder which = } 100 \times 20/100 = 20 \text{ (points to be taken).}$$

- ❖ If a person quotes Rs.96/- (Say L2)

Applying the formulae, Financial Score for L2 bidder,

$$SF = 100 \times 80/96 = 83.33 \text{ (SF shall be treated as 83.33 points for L2 bidder which = } 83.33 \times 20/100 = 16.6 \text{ (points to be taken).}$$



## 50. GENERAL CONDITIONS OF CONTRACT

### 50.1 General Provisions

#### 50.1 .1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

(a) "Employer" means Board of Trustees of Bhore Sagar Port Limited, a Special Purpose Vehicle (SPV) with share of Kolkata Port Trust (KoPT) and Govt. Of West Bengal is in the ratio of 74:26 (hereinafter to be called the Authority) or any other officers so nominated by the Board.

(b) "Applicable Law" means the laws and any other instruments having the force of law in India, as they may be issued and in force from time to time;

(c) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract are attached, together with all the documents listed in letter of award;

(d) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause General Condition 4.2.1;

(e) "Foreign Currency" means currency in US Dollars or the currency of the home country of Consultant;

(f) "GC" means these General Conditions of Contract;

(g) "Government" means the Government of India;

(h) "Local Currency" means Indian Rupees;

(i) "Member", in case the Consultants consist of a joint venture of more than one entity, means any of these entities, and "Members" means all of these entities;

(j) "Personnel" means persons hired by the Consultants or by any Sub-consultant as employees and assigned to the performance of the Services or any part thereof;

"Foreign Personnel" means such persons who at the time of being so hired had their domicile outside India; "Local Personnel" means such persons who at the time of being so hired had their domicile inside India; and "Key Personnel" means the personnel referred to in Clause General Condition 4.4.2 (a);

(k) "Party" means the Employer or the Consultants, as the case may be, and Parties means both of them;

(l) "Services" means the work to be performed by the Consultants pursuant to this Contract for the purposes of the Project, as described in Annexe- I hereto;

(m) "Sub-consultant" means any entity to which the Consultants subcontract any part or the Services in accordance with the provisions of Clause General Condition 4.3.7; and

(n) "Third Party" means any person or entity other than the Government, the Employer, the Consultants or a Sub-consultant.

(o) "Contract Sums" means gross amounts of consultant's original proposal in Indian Rupees with tax, duties, fees and other imposition inclusive of all cost, all types of subsoil investigation and environmental monitoring works if any.

(p) "Approved / approval" means the approval in writing.

#### 50.1.2 Relations between the Parties

Nothing contained herein shall be construed as establishing a relation or master and servant or of agent and principal as between the Employer and the Consultants. The Consultants, subject to this contract, have complete charge of Personnel performing the Services and shall be fully responsible for the services performed by them or on their behalf hereunder.

#### 50.1.3 Law Governing the Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law in India.

#### 50.1.4 Language

This Contract has been executed in the language English, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this contract.

#### 50.1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

#### 50.1.6 Notices

50.1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorised representative of the party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the address given in the proposal document for issue of proposal document.

50.1.6.2 Notice will be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) in the case of telexes, 24 hours following confirmed transmission;
- (c) in the case of telegrams, 24 hours following confirmed transmission; and
- (d) in the case of facsimiles, 24 hours following confirmed transmission.

50.1.6.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in Clause General Condition 4.1.6.2.

#### 50.1.7 Location

The Services shall be performed at such locations as are specified in Annex- I hereto and, where the location of a particular task is not so specified, at such locations, whether in India or elsewhere, as the Employer may approve.

#### 50.1.8 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Employer or the Consultants may be taken or executed by the authorized representative specified in bid document.

#### 50.1.9 Taxes and Duties

The Consultants and their personnel (domestic consultant/personnel and foreign consultant/personnel) shall pay the taxes, custom duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this Contract and the Employer shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.

### 50.2 Commencement, Completion, Modification and Termination of Contract

#### 50.2.1 Effectiveness of Contract

This Contract shall come into force and effect on the date of the Employer's notice to the Consultants instructing the Consultants to begin carrying out the Services. This notice shall constitute agreement between Employer and the consultant till formal agreement has been signed.

#### 50.2.2 Termination of Contract for Failure to Become Effective

If this Contract has not become effective within three months or such other time period as the party may agree in writing after date of the Contract signed by the Parties, either Party may, by not less than four (4) weeks' written notice to the other Party, declare this Contract to be null and void, and in the event of such

declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

#### 50.2.3 Commencement of Services

The Consultants shall begin carrying out the Services within 15 days. The completion period of this assignment is as per clause 2.11 of the other terms and conditions.

#### 50.2.4 Expiration of Contract

Unless terminated earlier pursuant to Clause General Condition 50.2.9 hereof, this Contract shall expire when services have been completed and confirmed by the Employer by issuing completion certificate at the end of six months.

#### 50.2.5 Entire Agreement

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

#### 50.2.6 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties.

Pursuant to Clause General Condition 50.7.2 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

#### 50.2.7 Force Majeure

##### 50.2.7.1 Definition

(a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's sub-consultants or agents or employees, nor

(ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Contract and (B) avoid or overcome in the carrying out of its obligations hereunder.

(c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

#### 50.2.7.2 No Breach of Contract

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from any event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

#### 50.2.7.3 Measures to be taken

(a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.

(b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

(c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

#### 50.2.7.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

#### 50.2.7.6 Consultation

Not later than thirty (30) days after the Consultants, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

#### 50.2.8 Suspension

The Employer may, by written notice of suspension to the Consultants, suspend all payments to the Consultants hereunder if the Consultants fail to perform any of their obligations under this Contract, including carrying out of the Services,

provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultants to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultants of such notice of suspension.

#### 50.2.9 Termination

##### 50.2.9.1 By the Employer

The Employer may, by not less than thirty (30) days written notice of termination to the Consultants for the occurrence of any of the events specified hereunder of this Clause General Condition 50.2.9.1, terminate this Contract.

(a) If the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause General Condition 50.2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Employer may have subsequently approved in writing:

(b) If the Consultants become (or, if the Consultants consist of more than one entity, if any of their Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

(c) if the Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause General Condition 4.8 hereof;

(d) If the Consultants submit to the Employer a statement which has a material effect on the rights, obligations or interests of the Employer and which the Consultants know to be false.

(e) if, as a result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(f) If the Employer, in its sole discretion and for any reason whatsoever, decides to terminate this contract.

(g) If the Consultant, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

For the purpose of this clause:

"Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.

"Fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a Contract to the detriment of the

borrower, and includes collusive practice among Consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the borrower of the benefits of free and open competition.

In case the contract is terminated, the balance amount of advance fee if any, paid earlier shall be paid back by the Consultant to Employer within thirty days of the termination letter, failing which the same shall be recovered by encashing the existing Bank Guarantee submitted by Consultant.

#### 50.2.9.2 By the Consultants

The Consultants may, by not less than thirty (30) days' written notice to the Employer, such notice to be given after the occurrence of any of the events specified hereunder of this Clause General Condition 50.2.9.2, terminate this Contract;

(a) If the Employer fails to pay and money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause 50.8 hereof within forty-five (45) days after receiving written notice from the Consultants that such payment is overdue;

(b) If the Employer is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultants may have subsequently approved in writing) following the receipt by the Employer of the Consultants notice specifying such breach;

(c) If, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(d) If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to Clause General Condition 50.8 hereof.

#### 50.2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clause General Condition 50.2.2 or General Condition 50.2.9 hereof, or upon expiration of this Contract pursuant to Clause General Condition 50.2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except;

- i) Such rights and obligations as may have accrued on the date of termination or expiration;
- ii) The obligation of confidentiality set forth in Clause General Condition 50.3.3 hereof;
- iii) Any right which a Party may have under the Applicable Law.

#### 50.2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses General Condition 50.2.9.1 or General Condition 50.2.9.2 hereof, the Consultants shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultants and equipment and materials furnished by the Employer, the Consultants shall proceed as provided, respectively, by Clause General Condition 50.3.8 or General Condition 50.3.9 hereof.

#### 50.2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses General Condition 50.2.9.1 or General Condition 50.2.9.2 hereof, the Employer shall make the payments to the Consultants provided after offsetting against these payments any amount that may be done from the Consultant:

- i) Remuneration pursuant to Clause General Condition 50.6 hereof for Services satisfactorily performed prior to the effective date of termination;
- ii) Reimbursable expenditures pursuant to Clause General Condition 50.6 hereof for expenditures actually incurred prior to the effective date of termination; and
- iii) Except in the case of termination pursuant to paragraphs (a) through (g) of Clause General Condition 50.2.9.1 hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultants' personnel and their eligible dependents.

#### 50.2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause General Condition 50.2.9.1 or in Clause 50.2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause General Condition 50.8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### 50.3. Obligations of the Consultants

#### 50.3.1 General

##### 50.3.1.1 Standard of Performance

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe



sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Employer, and shall at all times support and safeguard the Employer's legitimate interest in any dealings with sub-consultants or Third Parties.

#### 50.3.1.2 Law Governing Services

The Consultants shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any sub-consultants, as well as the Personnel and agents of the Consultants and any sub-consultants, comply with the Applicable Law. The Employer shall advise the Consultants in writing of relevant local customs and the Consultants shall, after such notifications respect such customs.

#### 50.3.2 Conflict of Interests

##### 50.3.2.1 Consultants not to Benefit from Commissions, Discounts etc.

The remuneration of the Consultants pursuant to Clause General Condition 50.6 hereof shall constitute the Consultants' sole remuneration in connection with this Contract or the Services and, the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultants shall use their best efforts to ensure that any sub-consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

##### 50.3.2.2 Procurement Rules of the Employer

If the Consultant as part of the Services, have the responsibility of advising the Employer on the procurement of goods, works or services, the Consultants shall comply with any applicable procurement guidelines of the Employer or the agencies funding such procurement and shall at all times exercise such responsibility in the best interest of the Employer. Any discounts or commissions obtained by the Consultants in the exercise of such procurement responsibility shall be for the account of the Employer.

##### 50.3.2.3 Consultants and Affiliates not to engage in certain Activities

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any sub-consultant and any entity affiliated with such sub-consultant; shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

#### 50.3.2.4 Prohibition of Conflicting Activities:

Neither the Consultants nor their sub-consultants nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in India which would conflict with the activities assigned to them under this Contract; or
- (b) after the termination of this Contract, such other activities objectionable to Employer.

#### 50.3.3 Confidentially

The Consultants, their sub-consultants and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Employer's business or operations without the prior written consent of the Employer.

#### 50.3.4 Liability of the Consultants

Limitation of the Consultants' Liability towards the Employer (a) Except in case of gross negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the Services, the Consultants, with respect to damage caused by the Consultants to the Employer's property, shall not be liable to the Employer.

(i) For any indirect or consequential loss or damage; and

(ii) For any direct loss or damage that exceeds (A) the total payments for Professional Fees and Reimbursable Expenditures made or expected to be made to the Consultants hereunder, or (B) the proceeds the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher.

(b) This limitation of liability shall not affect the Consultants' liability, if any, for damage to Third Parties caused by the Consultants or any person or firm acting on behalf of the Consultants in carrying out the Services.

#### 50.3.5 Insurance to be Taken Out by the Consultants.

The Consultants (i) shall take out and maintain, and shall cause any sub-consultants to take out maintain, at their (or the sub-consultants', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as mentioned below, and (ii) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been paid. The risks and the coverages shall be as follows:

(a) Third Party Motor Vehicle Liability Insurance as required under extant Motor Vehicles Act in respect of motor vehicles operated in India by the Consultants or their Personnel or any Sub-consultants or their Personnel for the period of Consultancy.

(b) Third Party Liability Insurance with a minimum coverage for Rs. 5 lakh for the period of consultancy.

(c) Employer's Liability and Workers' Compensation Insurance in respect of the Personnel of the Consultants and of any Sub-consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and

(d) Insurance against loss of or damage to:

(i) Equipment purchased in whole or in part with funds provided under this Contract,

(ii) The Consultants' property used in the performance of the Services, and

(iii) Any documents prepared by the Consultants in the performance of the Services.

#### 50.3.6 Consultants' Actions requiring Employer's prior Approval

The Consultants shall obtain the Employer's prior approval in writing before taking any of the following actions:

(a) Appointing such members of the Personnel as are not listed in Appendix- A ("Consultants' sub-consultants' and Key Personnel");

(b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Employer prior to the execution of the subcontract, and (ii) that the Consultants shall remain fully liable for the performance of the Services by the sub-consultant and its Personnel pursuant to this Contract;

(c) any other action objectionable to the Employer.

#### 50.3.7 Reporting Obligations

The Consultants shall submit to the Employer the reports and documents specified in Annex- I hereto, in the form, in the numbers and within the time periods set forth in the said Annexure.

50.3.8 Documents Prepared by the Consultants to be the Property of Employer All plans, drawings, specifications, designs, reports and other documents prepared

by the Consultants in performing the Services shall become and remain the property of the Employer, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents. The Consultants shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Employer.

#### 50.3.9 Equipment and Materials Furnished by the Employer

Equipment and materials made available to the Consultants by the Employer, or purchased by the Consultants with funds provided by the Employer, shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultants shall make available to the Employer an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Employer's instructions. While in possession of such equipment and materials, the Consultants, unless otherwise instructed by the Employer in writing, shall insure them in an amount equal to their full replacement value.

#### 50.4. Consultants' Personnel

##### 50.4.1 General

The Consultants shall employ and provide such qualified and experienced Personnel as are required to carry out the Services.

##### 50.4.2 Description of Personnel

(a) The titles, agreed job descriptions, minimum qualification and estimated periods of engagement in the carrying out of the Services of each of the Consultants' Key Personnel are described in Appendix A. If any of the Key Personnel has already been approved by the clients his/her name is listed as well.

(b) If required to comply with the provisions of Clause General Condition 50.3.1.1 of this Contract, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix A may be made by the Consultants by written notice to the Employer, provided that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger. Any other such adjustments shall only be made with the Employer's written approval.

(c) If additional work is required beyond the Terms of reference specified in Annex -I, the estimated periods of engagement of Key Personnel set forth in Appendix- A may be increased by agreement in writing between the Employer and the Consultants.

#### 50.4.3 Approval of Personnel

The Key Personnel and Sub-consultants listed by title as well as by name in Appendix A are hereby approved by the Employer. In respect of other Key Personnel which the Consultants propose to use in the carrying out of the Services, the Consultants shall submit to the Employer for review and approval a copy of their biographical data. If the Employer does not object in writing (stating the reasons for the objection) within twenty-one (21) calendar days from the date of receipt of such biographical data such Key Personnel shall be deemed to have been approved by the Employer.

#### 50.4.4 Working Hours, Overtime, Leave, etc.

(a) Working hours and holidays for Key Personnel are set forth in Appendix B hereto.

(b) The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave. The Consultants' remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel shall be outside the staff-months of service set for in Appendix A. Any taking of leave by Personnel on account of unforeseen circumstances shall be with prior approval of the Employer and the Consultants shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services. Further, no fee shall be payable to the Consultant for such leave periods and suitable deductions from the bills shall be made on this account.

#### 50.4.5 Removal and/or Replacement of Personnel

(a) Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualifications. The upper limit of substitution on account of various reasons including on health ground should normally not exceed 25% of the total key personnel as given in Appendix A.

(b) If the Employer (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Employer's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Employer.

(c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultants may wish to claim as a result of such replacement,

shall be subject to the prior written approval by the Employer. Except as the Employer may otherwise agree, (i) the Consultants shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as are placement shall not exceed the remuneration which would have been payable to the Personnel replaced. Further for Key Personnel replaced for the second time, the remuneration payable shall not exceed 90% of the remuneration which would have been payable to the originally proposed Key Personnel. Also, if the total replacement of Key Personnel exceeds 25%, the remuneration payable for Key Personnel shall not exceed 90% of the remuneration which would have been payable to the originally proposed Key Personnel.

#### 50.4.6 Resident Manager / Team Leader

The person designated as Team Leader in Appendix - A shall serve in that capacity. The Consultants shall ensure that at all times during the Consultants performance of the Services in India a resident project manager, acceptable to the Employer, shall take charge of the performance of such Services.

### 50.5. Obligations of the Employer

#### 50.5.1 Assistance and Exemptions

The Employer shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultants, Sub-consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-consultants or Personnel to perform the Services;
- (b) assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all supporting papers for necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India;
- (c) Facilitate prompt clearance through customs of any property required for the Services;
- (d) Issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- (e) Assist the Consultants and the Personnel and any Sub-consultants employed by the Consultants for the Services for any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law;
- (f) grant to the Consultants, any Sub-consultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into India

reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services; and

(g) Provide to the Consultants, Sub-consultants and Personnel any such other assistance as may be required time to time.

#### 50.5.2 Services, Facilities and Property of the Employer

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 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.

#### 50.5.3 Payment

In consideration of the Services performed by the Consultants under this Contract, the Employer shall make to the Consultants eligible payments and in such manner as is provided by Clause General Condition 50.6 of this Contract.

#### 50.5.4 Counterpart Personnel

(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. 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.

(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.

#### 50.6 Payments to the Consultants

##### 50.6.1 Cost Estimates

The Employer shall pay the Consultant for normal Services in accordance with the Conditions and with the details stated in Annex-III of Financial Proposal, and shall pay for Additional Services if any ordered by the Employer in writing at rates and prices which are given in or based on those in Annex -III so far as they are applicable but otherwise as agreed mutually.

#### 50.6.2 Remuneration and Reimbursable Expenditures

It is understood that the fee quoted by Consultants cover (A) such salaries and allowances as the Consultants shall have agreed to pay to the Personnel as well as factors for social charges and overhead, and (B) the cost of back supporting by home office staff not included in the Personnel listed in Appendix - A and (C) the Consultants' fee, (D) bonuses or other means of profit-sharing, if any, and (E) all other expenditure involved in providing the services as per the agreement which are not specifically stated herein above.

#### 50.6.3 Currencies of Payment:

- a) All payments by the Employer under this contract will be made only in Indian Rupees.
- b) The Fee quoted by the Consultant shall be inclusive of but not limited to specific requirements, such as on account of:
  - i) Expatriate staff employed directly on the work
  - ii) Social, insurance, medical and other charges relating to such expatriate staff and foreign travel expenses;
  - iii) Depreciation and use of imported plant and equipment, including spare parts, required for the works
  - iv) Foreign insurance and freight charges for plant and equipment, including spare parts etc.
  - v) Overhead expenses, fees and financial charges arising outside India in connection with the works

#### 50.6.4 Mode of Billing and Payment:

Billing and payments in respect of the Services shall be made as follows:-

- (a) No advance payment shall be paid to the Consultant.
- (b) As soon as practicable and not later than fifteen (15 days) after the end of each calendar month during the period of the Services, the Consultants shall submit to the Employer, in duplicate, itemized statements and other appropriate supporting materials, of the amounts payable pursuant to clauses General Condition 4.6.3 for such month. The payment is as per Financial Proposal (Annex-



III) and shall become due and payable as and when the task assigned in such stages completed in all respect.

(c) The payment for the interim running account bills (R.A. Bill) shall be made to the Consultant within 30 days of date of certification of the bill by the Employer. For the final bill, the payment shall be made within 45 days of the day of certification of the bill by the Employer provided that there should not be any disputed item. If bills are in order and there are no disputed items, the bills shall be certified by the Employer within seven working days of the receipt of the bill by the Employer. In case Employer feels the submitted bill is not in line with the agreement, the same shall be returned to consultants promptly within seven days to resubmit the bill in acceptable form or withdraw the bill if it is disputed or beyond the scope of agreement. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultants, the Employer may add or subtract the difference from any subsequent payments.

(d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Employer. The Services shall be deemed completed and finally accepted by the Employer and the final report and final statement shall be deemed approved by the Employer as satisfactory forty five (45) calendar days after receipt of the final report and final statement by the Employer unless the Employer, within such forty five (45) day period, gives written notice to the Consultants specifying in detail deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Employer has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Employer within thirty (30) days after receipt by the Consultants of notice thereof. Any such claim by the Employer for reimbursement must be made within twelve (12) calendar months after receipt by the Employer of a final report and a final statement approved by the Employer in accordance with the above.

## 50.7 Fairness and Good Faith

### 50.7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's right under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

### 50.7.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause 50.8 hereof.

### 50.8. Settlement of Disputes

#### 50.8.1 Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

#### 50.8.2 Dispute Settlement

Disputes shall be settled by arbitration in accordance with the following provisions: All disputes in respect of subject contract shall be settled by arbitration in accordance with the Arbitration and conciliation Act, 1996 or any statutory amendment thereof. The arbitral tribunal shall consist of 3 arbitrators, one each to be appointed by the Employer and Project Management Consultant. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties and shall act as presiding Arbitrator. The language of Arbitration shall be English.

Only questions and disputes as were raised during the execution of the work till its completion and not thereafter shall be referred to arbitration. However, this would not apply to the questions and disputes relating liabilities of the parties after completion of the work.

While invoking arbitration the contractor shall give a list of disputes with amounts in respect of each dispute along with the notice for appointment of Arbitrator.

If the Consultant does not make any demand for appointment of Arbitrator in respect of any claims in writing as aforesaid within 180 days of receiving the intimation from Engineer-in-Charge that final bill is ready for payment, the claim of Consultant shall be deemed to have been waived and absolutely barred and the Employer shall be discharged and absolved of all liabilities under the contract. It is also a term of this contract that if any fees are payable to the Arbitrator these shall be paid equally by both parties. The arbitration proceeding shall take place in Kolkata only. However, all disputes are subject to exclusive jurisdiction of courts at Kolkata, only.

## 50.9. Liquidated damages:

### 50.9.1 Liquidated Damages for error/ variation:

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Consultant by way of deemed liquidated damages, subject to a maximum of 50% (fifty percent) of the Agreement Value.

### 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).

### 50.9.3 Encashment & appropriation of Performance Security:

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Consultant in the event of breach of this Agreement or for recovery of Liquidated Damages specified in this Clause- 50.9.

### 50.9.4 Penalty for deficiency in Services:

In addition to the Liquidated Damages not amounting to penalty, as specified in Clause- 50.9, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the project or on the reputation of the Authority, other penal action including debarring for a specified period may also be initiated as per policy of the Authority. The time period for the various stages of services as indicated in financial proposal, is as under.

Deliverable	Description of Deliverable	Timeline* (from date of LOA)
1	Inception Report	0.5 month
2	Draft Appraisal Report	1 month
3	Appraisal Report	1.5 months

4	Draft Techno-Economic Feasibility Report	3 months
5	Final Techno-Economic Feasibility Report **	4 months subject to the comments of the authority on draft TEFR are provided within 10 days.
	APPROVAL OF THE COMPETENT AUTHORITY	'0' DAY
6	Draft Detail Project Report (DPR)	0 plus 4 months
7	Final Detail Project Report (DPR)	0 plus 6 months
8	Draft Bid Documents	0 plus 8 months
9	Final Bid Documents & EIA/EMP and Environmental Clearance	0 plus 10 months*

**\*\*.** As such works at item No 6 to 9 shall be undertaken only after further confirmation by BHOR SAGAR PORT PVT LTD.

#### 51. TERMS OF REFERENCE (ToR): GENERAL

51.1 Bhore Sagar Port Limited (BHORE SAGAR PORT PVT LTD) a Special Purpose Vehicle (SPV) with share of Kolkata Port Trust (BHORE SAGAR PORT PVT LTD) and Govt. Of West Bengal is in the ratio of 74:26 (hereinafter to be called the Authority), seeks the services of a qualified firm (hereinafter to be called the Consultant) for Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and preparation of bid documents for the Project for Development of a Deep-Sea Port at Tajpur, West Bengal.

51.2a. Whereas the said SPV is now desirous of developing another green field port near Tajpur, in the State of West Bengal.

51.2b. The Consultant shall be guided in its assignment by the Model Concession Agreement (the "MCA") including Construction Standards, Operations & Maintenance Standards, Safety Standards and Performance Standards for Port Projects through EPC/PPP Contract.

51.3 The Consultant shall assist the Authority during pre-bid meeting by furnishing clarifications as required for the structuring, documentation and award of the Project.

51.4 The Consultant shall also participate in the pre-bid conferences with the Bidders of the Project and assist the Authority in clarifying the financial and legal aspects arising from the Bid Documents.

51.5 The Consultant shall make available the Technical Expert and other Key Personnel to attend and participate in meetings, conferences and discussions with the Authority from time to time.

The study needs to be carried out in two phases.

- **Phase-I : Techno-economic Feasibility Report**
- **Phase II : Detailed Project Report and Bid Documents including Environment Impact Assessment and Environment Management Plan**

## **52. Scope of work for preparation of TEFR, DPR, EIA & EMP and Bid Documents.**

Scope involves following components:

**52.1 Market study:** This involves International, National and regional market study and assessment of potential cargo wise traffic likely to visit/handle at Tajpur Port over the next thirty years.

**52.1.1** This involves International, National and regional market study and assessment of potential cargo wise traffic likely to be handled at Tajpur Port over the next thirty years at an interval of 5 year respectively based on analysis of commodity wise traffic trend, traffic growth and growth in the influence area of the Project.

**52.1.2** The Consultant should take an inventory of the competing major/ non major and proposed ports on the Indian coast for handling various cargoes and examine their impact on the existing ports. The projections should include, the liquid bulk, dry bulk, container and break bulk traffic.

**52.1.3** Based on the assessment of the traffic and demand of the Project, the Consultant shall provide a broad assessment of the need for the project. The Consultant shall also provide sensitivity analysis due to change in assumption of traffic projections.

**52.2 Site condition assessment:** Site condition assessment: Technical suitability of the site for proposed development is included as scope of work.

**52.2.1** This includes collection of real time site specific data along with mathematical model study and also to carry out detailed analysis for preparation of Techno Economical Feasibility Report (TEFR) (in phase I) and also separately for Detailed Project Report (DPR) ( in phase II) including EIA & EMP and also

review the data and documents of the existing geological maps, catchment area maps, contour plans, hydrological data, catchment area characteristics, channel characteristics, flood flow data, seismological data, condition of existing bank/protection works, if any etc. The Pre-feasibility report of CRISIL shall be examined in detail as well the alternative location by shifting the port deeper into the sea to reduce channel length shall also have to be considered.

52.2.2 Conducting further bathymetry/ hydrographical/ topographic surveys and other field investigations, along with model studies for identifying the suitable location for the port. Prepare maps using appropriate scales.

52.2.3 Examining the navigational aspects of the approach channel, proposed length and width of the channel in different phases and its stability, dimensions and draft of vessels using it and assessment of dredging (capital and maintenance) requirements as well as utilization of dredged material for reclamation of land. Reports of Mathematical model and other studies shall be enclosed in support of the recommendations.

52.2.4 Identifying the best location, planning of port layout and facilities at the identified location for handling the anticipated traffic to accommodate vessels carrying cargo upto **16-18 m** draft. However at Initial stage 12.5 m draft may be considered and upon review provision for deepening for achieving 16.5 m to 18 m draft at final stage may be provided. Requirement of number of jetties for handling different commodities based on the cargo projection. In this context the Drawing No.... at Appendix F may be referred to.

52.2.5 Determining the cargo (for both break bulk and liquid) and container handling equipment requirements to deal with estimated volumes.

52.2.6 Selection of suitable alignment, length and track for Rail connectivity between proposed port and nearest rail head.

52.2.7 Selection of suitable alignment, length and width for Road connectivity between proposed port and nearest Highway.

52.2.8 Requirement of Land as per the selected alignment for rail-road connectivity and any other land required for the project. Estimation of cost towards Land acquisition and Rehabilitation and Resettlement (R&R)

52.2.9 Undertake environmental impact assessment studies (EIA) study for the project. To assess present Environmental Status of the Proposed Project Site & surrounding.

52.2.10 Proposed development plan with national and international standards.

52.2.11 Preparation of Master Plan.

52.2.12 Preparation of abstract cost estimates for all port facilities including rail-road connectivity, Breakwater, dredging, dumping, reclamation etc.

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 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”).

52.2.14 Preparation of General Arrangement Drawing (GAD) and alignment plan showing the salient feature of the Port including rail-road connectivity and approach channel.

52.2.15 Analysis and design calculation.

52.2.16 Preparation & submission of **inception report and feasibility report** for consent of the client.

52.2.17 Preparation of Design report and construction drawings of Port including rail-road connectivity and approach channel based on geotechnical investigation and field investigation details for **EPC/PPP mode** of contract.

52.2.18 Preparation of BOQ and detailed cost estimates for the project. While preparing such report the consultant shall obtain supporting documents for such cost estimates i.e. budgetary quotations and specifications of the proposed list of equipments and the name and addresses of vendors and annex with their reports.

52.2.19 Preparation of all pre-qualification, **Bid document (EPC/PPP contract)** for a successful bid process management.

52.2.20 Preparation and submission of **Detailed Project Report (DPR)** for suggestion/approval of client.

52.2.21 Project financial analysis.

52.2.22 Project Time schedule.

### **52.3 The DPR shall include following Specific requirement for the Proposed Project.**

52.3.1 Reasons for selecting the site with details of alternative site justifying the site suitability in terms of different parameter like availability of cargo, connectivity, resource sustainability, environmental angle etc. The analysis should include consideration of various relevant parameters along with appropriate weightage assigned to it, for short-listing selected site.

52.3.2 Preparation of Techno-economic Feasibility Report (TEFR) and DPR based on collection of real time site specific data along with mathematical model study.

52.3.3 Details of land use break-up for the proposed project area including provision for R&R.

52.3.4 Geotechnical Investigations, in the form of bore holes for collection of subsoil data required for planning & designing marine structures and onshore structures. The numbers/spacing of boreholes shall be in such a way to get sub-soil data representation of the location and collection of samples. In case of dredging works, the numbers & arrangement of boreholes shall cover all dredge areas and the testing of samples, analysis and classification of soil shall be in accordance with the guidelines laid down by Ministry of Shipping and PIANC (1984) Classification to suit the dredging contractor. About 30 marine boreholes and 10 onshore boreholes are required to be carried out covering all the marine structures, dredging area and the onshore facilities.

52.3.5 To conduct bathymetric survey, side scan and shallow seismic surveys and collection of oceanographic data required for EIA studies and sedimentation studies. The bathymetric survey shall cover an area of about 2.5 km along the shore and channel area upto proposed deep waters at a 100m x 100m grids covering all the Phases of development.

52.3.6 Detailed traffic and transportation study is to be made for existing and projected passenger & cargo traffic in connection with the rail-road connectivity of the proposed project site.

52.3.7 Details of terrain, contour plan with slope drainage pattern of the site and surrounding area. Assessment of filling required, sources of filling materials and transportation details etc.

52.3.8 Details of the lay-out plan.



52.3.9 Mathematical Model study is to be conducted by any reputed organization/agency having expertise in the field to assess impact of different component of projects like Sustainability of the proposed shipping channel, break water, approach Trestle dredging, reclamation etc. A copy of Report is to be submitted separately.

52.3.10 Details of dredging methodology, dumping, disposal and reclamation.

52.3.11 Detail study related to Current/wave conditions at port entrance and along the navigational channel.

52.3.12 Detail study related to cyclonic effect at port area.

52.3.13 Details of ship tranquility study.

52.3.14 Details of fishing activity and likely impact on the fishing activity due to the project.

52.3.15 Study of shore line change of the proposed project site including expected impact at the northern and southern side of the project.

52.3.16 Details of human resource plan and cargo-handling plan with cargo evacuation.

52.3.17 Details of water requirement, source, treatment details, supply and use of treated waste water.

52.3.18 Details of power requirement and source of power supply.

52.3.19 Assessment of solid waste generation, treatment and its disposal.

52.3.20 Risk assessment and disaster management plan including emergency evacuation during natural and/or manmade disasters.

52.3.21 Proposal for oil spill contingency plan.

52.3.22 Cost of the project (capital cost & recurring cost) and cost towards implementation of environmental management plan should be clearly spelt out.

52.3.23 A copy of all the special study report which consultant is to carryout engaging outside agency is to be submitted to BHOR SAGAR PORT PVT LTD. This will include survey reports like contour survey, bathymetry Survey etc.

52.3.24 The proposed port is to be developed as bunkering port.

#### **52.4 Environment Impact Assessment including Environment Management Plan:**

- (i) The consultant, if not himself an accredited EIA consultant of MoEF & CC for Port and Harbour Sector, shall engage one such reputed consultant to carry out all the activities leading to final Environmental Clearance. The EIA consultant must be experienced in dealing such type of projects having credible track record.
- (ii) Necessary assistance in the form uploading of the application, preparation of presentation material, printing and submitting of documents as per requirement of project proponent to be provided.
- (iii) 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.
- (iv) EIA study will be all inclusive including CRZ mapping by engaging accredited agency in this regard.
- (v) EIA consultant will assist project Proponent in all respect for Public Hearing and will remain present during the same.
- (vi) Necessary support to be provided to the BHOR SAGAR PORT PVT LTD in all manners to obtain Environment Clearance (EC).
- (vii) The application for Environment clearance is to be made only after finalization of the project planning in all respect.

#### **53. Activities and Deliverables**

##### **53A. Inception Meeting and Report**

The Consultant will conduct an inception meeting with the Authority. The objective of this meeting will be to appraise the Authority with the complete plan of activities proposed by the consultant for the assignment. The meeting would cover the following points:

- Review of the Authority's perspective for the Project.
- Review of time line of activities / milestones going forward.
- Review of the team organization and detailed functions of the team members.
- Discussion and finalization of a communication strategy whereby all concerned will be regularly involved and consulted throughout the assignment.

- Any specific issue requiring immediate attention of Authority

**Deliverables:**

- i. Detailed methodology and time schedule for the said consultancy assignment.
- ii. A communication strategy
- iii. Progress report to date
- iv. A brief report on the Identification of key issues relevant from the Authority's perspective and/or issues that might affect Authority's interest in the Project and contain recommendations with respect to mitigation of Authority concerns on such issues
- v. Presentation to Authority

Timeframe: 2 weeks from date of LOA

**53B. Draft Appraisal Report:**

Submission of Draft Appraisal Report and Presentation to Authority.

Timeframe: Within one Month from date of LOA

**53C. Appraisal Report:**

Submission of Appraisal Report and Presentation to Authority.

Timeframe: Within one Month from date of LOA

**53D. Draft Techno-Economic Feasibility Report:**

Submission of Draft Techno-Economic Feasibility Report and Presentation to Authority.

Timeframe: Within 3 Months from date of LOA

**53E. Final Techno-Economic Feasibility Report:** Submission of Final Techno-Economic Feasibility Report and Presentation to Authority. Submission of draft memo for seeking Cabinet Approval, PPPAC Approval, PIB approval as per requirement.

Timeframe: Within 4 Months from date of LOA

**NOTE: Approval of the Cabinet will be reckoned as '0' Date.**

**53F. Draft Detail Project Report (DPR):** Submission of Draft Detail Project Report (DPR) and Presentation to Authority

Timeframe: '0' Date plus 4 months.

**53G. Final Detail Project Report (DPR):** Submission of Detail Project Report (DPR): i) incorporating all the suggestions from Authority ii. Reply for all the Queries of Authority iii. Soft copy of report and all the data in GIS format and Presentation to Authority.

Timeframe: '0' Date plus 6 months.

**53H . EIA Study for Environmental clearance :**

I) EIA and EMP report :

i) CRZ maps in 1:4000 and 1:25000 including superimposition of the same project layout in 1:4000 map.(2 copy in original as will be prepared by accredited mapping agency. )

ii) Soft copy of report and all the data in GIS compatible format and Presentation to Authority.

Timeframe: '0' Date plus 10 months.

**53J. Draft Bid Documents:** Submission of Draft Bid Documents and Presentation to Authority

Timeframe: '0' Date plus 10 months.

**53K. Final Bid Documents:** Submission of Final Bid Documents and Presentation to Authority

Timeframe: '0' Date plus 10 months.

**54. Payment Schedule:**

Deliverable	Description of Deliverable	Timeline* (from date of LOA )	Payment **(% of total fees)
1	Inception Report	0.5 month	10%
2	Draft Appraisal Report	1 month	5%
3	Appraisal Report	1.5 months	5%
4	Draft Techno-Economic Feasibility Report	3 months	10%

5	Final Techno-Economic Feasibility Report ***	4months	10%
6	Draft Detail Project Report (DPR)	8 months	25%
7	Final Detail Project Report (DPR)	10 months	5%
8	EIA/EMP and Environmental Clearance	14 months*	5%
9	Draft Bid Documents	12 months	10%
10	Final Bid Documents	14 months	10%

\* Excluding time taken by Authority in providing comments on Draft Reports not exceeding 10 days.

\*\* The payment for a deliverable will be made after acceptance of the same by Authority.

**\*\*\*-TEFR will require approval of the competent authority. As such works at item No 6 to 10 shall be undertaken only after further confirmation of BHOR SAGAR PORT PVT LTD..**

#### 55. Other terms and Conditions:

- i. Draft reports (Hard & Soft copy) shall be submitted in ten copies for getting the Authority's remarks/ suggestions.
- ii. Final reports (Hard & Soft copy) shall be submitted in twenty copies after incorporating all the Authority's remarks/ suggestions, if any.
- iii. The expenditure incurred for complying the above two points shall be suitably included in the basic cost of the services.
- iv. The Consultant shall have to visit Authority for presentations as and when required by Authority from time to time and the expenditure for the same shall be suitably included in the basic cost of the services.

Or

The Authority may review with the Consultant, any or all of the documents and advice forming part of the Consultancy, in meetings and conferences which will be held at the Authority's office. Further, the Consultant may be required to attend meetings and conferences with pre-qualified bidders or the Selected Bidder. The expenses towards attending such meetings during the period of Consultancy, including travel costs and per diem, shall be reimbursed in accordance with the Financial Proposal contained in Form-... of Appendix-.... of the RFP

v. In the event of discontinuance of the contract during occurrence of any activity, though the activity is not fully completed, the payment due for the activity shall be paid on pro-rata basis as assessed by the Authority and Authority's decision in this regard shall be final.

## ANNEXE-I

### APPLICATION LETTER

(On the Letter head of the Bidder)

Date :

Bhor Sagar Port Limited  
15, Strand Road,  
Kolkata-700001

**Subject:** Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep-Sea Port at Tajpur, West Bengal

Sir,

- 1) I/we, \_\_\_\_\_ (Name of tenderer) having examined the Tender Document and understood its contents, hereby submit our tender for ..... at, Bhor Sagar Port Limited.
- 2) All information provided in the tender including Addenda and in the Appendices are true and correct and all documents accompanying such tender are true copies of their respective originals.
- 3) I/We shall make available to Bhor Sagar Port Limited (hereinafter referred to as BHOR SAGAR PORT PVT LTD) any additional information it may find necessary or require to supplement or authenticate the Tender
- 4) I/we acknowledge the right of BHOR SAGAR PORT PVT LTD to reject our tender without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
- 5) I/we also certify the following
  - a. I/we / any of the consortium member (as the case may be) have not been debarred by the Central/State Govt. or any entity controlled by them or any other legal authority for participating in any tender / contract / agreement of whatever kind
  - b. I/we certify that in the last three years, I/We/any of the consortium members or our / their 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/entity nor have had any contract terminated by any public authority / entity for breach on our part.

- 6) I/we declare that :
- a. I/we have examined and have no reservations to the Tender Document, including the Addenda issued by BHOR SAGAR PORT PVT LTD thereon
  - b. I/we hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt, fraudulent or coercive practices to influence the evaluation process of the tender.
- 7) I/we understand that BHOR SAGAR PORT PVT LTD reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time without any liability or any obligation for such acceptance, rejection or annulment without assigning any reason thereof.
- 8) \_\_\_\_\_( Name of Tenderer) hereby undertakes that I/we will abide by the decision of BHOR SAGAR PORT PVT LTD in the matter of examination, evaluation and selection of successful tenderer and shall refrain from challenging or questioning any decision taken by BHOR SAGAR PORT PVT LTD in this regard.
- 9) We are enclosing our Proposal including Technical Proposal in one original plus one copy and Financial Proposal with the details as per the requirements of the Proposal Documents, for your evaluation

Thanking you,

Yours faithfully,

**Signature of Power of Attorney Holder(s).....**

**Name: .....**

\*\*\*\*\*



**ANNEXE II**  
**FINANCIAL PROPOSAL**

From :

---

To

Bhor Sagar Port Limited  
15, Strand Road,  
Kolkata-700001

**Subject:** Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA & EMP) for Development of a Deep-Sea Port at Tajpur, West Bengal

1. I/We have perused the Proposal Document for subject assignment containing Terms of Reference in Annex-I and other details and am/are willing to undertake and complete the assignments as per terms and conditions stipulated in the 'Proposal Document'.

2. Our price offer is inclusive of all taxes, incidentals, overheads, travelling expenses, printing and binding of reports, expenditure related to presentation to be made during the execution of the Consultancy Service, sundries and all other items involving expenditure for execution of this assignment covering scope of work as stipulated in "Terms of Reference" (enclosed as **Annex-I** to the Proposal Document) and excluding prevalent GST. The amount to be quoted towards Consultancy works shall be filled in the **BoQ format** attached to the tender document (Appendix E). This offer is valid for a period of **180 days** from the due date of submission of the proposal document.

3. The above quoted gross amount should be the total of 2 parts namely :

(i) Preparation of TEFR.

(ii) Preparation of DPR , EIA including obtaining Environment Clearance and preparation of Bid Document

4. I/We also agree to accept the stage-wise and percentage-wise payments as detailed below.

4.1 Stages of payment for the services are as under:

Deliverable	Description of Deliverable	Timeline* (from date of LOA )	Payment **( % of total fees)	Stages
1	Inception Report	2 weeks	10%	PHASE-I
2	Draft Appraisal Report	1 month	5%	
3	Appraisal Report	1.5 months	5%	
4	Draft Techno-Economic Feasibility Report	3 months	10%	
5	Final Techno-Economic Feasibility Report ***	4months	10%	
6	Draft Detail Project Report (DPR)	0+4 months  (0 <sup>th</sup> date is the approval date of the competent authority)	25%	PHASE-II  (after acceptance of TEFR and after confirmation from BHOR SAGAR PORT PVT LTD for phase-II work)
7	Final Detail Project Report (DPR)	0+6 months	5%	
8	Environmental Clearance (Up to obtaining necessary clearance)	0+10months*	10%	
9	Draft Bid Documents	0+8 months	10%	

10	Final Bid Documents	0+10 months	10%	
----	---------------------	-------------	-----	--

\* Excluding time taken by Authority in providing comments on Draft Reports not exceeding 10 days.

\*\* The payment for a deliverable will be made after acceptance of the same by Authority.

**\*\*\*. As such works at item No 6 to 10 shall be undertaken only after further confirmation of BHOR SAGAR PORT PVT LTD.**

**NOTE:**

i. All the payment under this contract will be made only in Indian Rupees. The fees shall be quoted in Indian Rupees only. The consultants shall be paid for the services rendered as per the TOR as per payment schedule given above. The prices quoted shall be inclusive of any statutory levies and/or other charges levied by any Central/ State/local authorities but excluding GST which shall be paid extra at applicable rates at the time of supply of goods/services.

ii. Any modifications required regarding inclusion of a new studies or modification to existing studies envisaged in the scope of Model Studies may be done by the employer during the preparation of DPR and the payment terms of which can be finalized by mutual consent or Employer may take up the same separately and the results and conclusion of the same shall be taken for finalizing and completion of DPR. The DPR submitted by the consultant shall meet the norms of Banks for financing of the Projects.

Signature of Power of Attorney Holder(s).....

Name: .....

**Witness's**

Signature\_\_\_\_\_

Signature\_\_\_\_\_

Name\_\_\_\_\_

Name\_\_\_\_\_

Address\_\_\_\_\_

Address\_\_\_\_\_

\*\*\*\*\*

ANNEX- III  
**PROFORMA OF BANK GUARANTEE**  
**(PERFORMANCE BOND)**

(In lieu of Cash Security Deposit) To be issued by the Kolkata Branch, as the case may be of any scheduled Bank of India on Non-judicial Stamp Paper worth Rs.50/- or as decided by the Authority

To  
The Bhor Sagar Limited,  
15 Strand Road,  
Kolkata  
Pin -700001

BANK GUARANTEE NO.....DATE.....

Name of Issuing Bank.....

Name of Branch.....

Address.....

In consideration of the Bhor Sagar Port Limited, Bhor Sagar Port Limited, a Special Purpose Vehicle (SPV) with share of Kolkata Port Trust (BHOR SAGAR PORT PVT LTD) and Govt. Of West Bengal having agreed to exempt.....a Proprietary / Partnership / Limited / Registered Company, having its Registered office at .....(hereinafter referred to as the "Contractor") from cash payment of Security Deposit / Payment of Security Deposit through deduction from the Contractors' bills under the terms and conditions of a contract made between the Trustees and the Contractor for.....(write the name of the work as per LOA) in terms of the Letter of Intent No.....dated .....(hereinafter referred to as the 'Contract'), for the due fulfilment by the contractor of all the terms and conditions contained in the said contract, on submission of a Bank Guarantee for (Rs.....), we.....Bank.....Branch.....

do, on the advice of the contractor hereby undertake to indemnify and keep indemnified the Trustees to the extent of the said sum of Rs.....(Rupees.....). We,

..... Bank.....Branch,

further agree that if a written demand is made by the BHOR SAGAR PORT PVT LTD through any of its officials for honouring the Bank Guarantee constituted by these presents, We ,..... Bank..... Branch, shall have no right to decline to cash the same for any reason whatsoever and shall cash the same and pay the sum so demanded to the Trustees within a week from the date of such demand by an A/c Payee Banker's Cheque drawn in favour of "Bhor Sgar Port Limited" without any demur. Even if there be any dispute between the contractor and the BHOR SAGAR PORT PVT LTD, this would be no ground for us ..... (Name of Bank).....Branch, to decline to honour the Bank Guarantee in the manner aforesaid. The very fact that We..... Bank.....Branch, decline or fail or neglect to honour the Bank Guarantee in the manner aforesaid shall constitute sufficient reason for the BHOR SAGAR PORT PVT LTD to enforce the Bank Guarantee unconditionally without any reference, whatsoever, to the contractor.

2. We..... Bank.....Branch, further agree that a mere demand by the Trustees at any time and in the manner aforesaid is sufficient for us..... Bank.....Branch, to pay the amount covered by this Bank Guarantee in full and in the manner aforesaid and within the time aforesaid without reference to the contractor and no protest by the contractor, made either directly or indirectly or through Court, can be valid ground for us.....Bank.....Branch, to decline or fail or neglect to make payment to the BHOR SAGAR PORT PVT LTD in the manner and within the time aforesaid.

3. We .....Bank.....Branch, further agree that the Bank Guarantee herein contained shall remain in full force and effect, during the period that is taken for the due performance of the said contract by the contractor and that it shall continue to be enforceable till all the dues of the BHOR SAGAR PORT PVT LTD under and/or by virtue of the terms and conditions of the said contract have been fully paid and its claim satisfied and/ or discharged in full and/or till the BHOR SAGAR PORT PVT LTD certify that the terms and conditions of the said contract have been

fully and properly observed/fulfilled by the contractor and accordingly, the Trustees have discharged the Bank Guarantee, subject however, that this

guarantee shall remain valid upto and inclusive of .....days of.....20.... and subject also to the provision that the BHOR SAGAR PORT PVT LTD shall have no right to demand payment against this guarantee after the expiry of 6 (six) calendar months from the expiry of the aforesaid validity period up to.....or any extension thereof made by us.....Bank.....Branch, in further extending the said validity period of this Bank Guarantee on Non-Judicial Stamp paper of appropriate value, as required/determined by the Trustees, only on a written request by the BHOR SAGAR PORT PVT LTD to the contractor for such extension of validity of this Bank Guarantee.

4. We.....Bank.....Branch,

further agree that, without our consent and without affecting in any manner our obligations hereunder, the BHOR SAGAR PORT PVT LTD shall have the fullest liberty to vary from time to time any of the terms and conditions of the said contract to extend the time for full performance of the said contract including fulfilling all obligations under the said contract or to extend the time for full performance of the said contract including fulfilling all obligations under the said contract by the contractor or to postpone for any time or from time to time any of the powers exercisable by the BHOR SAGAR PORT PVT LTD against the contractor and to forebear or enforce any of terms and conditions relating to the said contract and we.....  
Bank..... Branch shall not be relieved from our liability by reason of any such variation or extension being granted to the contractor or for any forbearance, act or commission on the part of the BHOR SAGAR PORT PVT LTD or any indulgence by the BHOR SAGAR PORT PVT LTD to the contractor or by any such matter of thing of whatsoever nature, which under the law relating to sureties would, but for this provision have effect of so relieving us .....Bank  
.....Branch.

5. We, .... Bank. ....Branch, lastly undertake not to revoke this Bank Guarantee during its currency except with the previous consent of the Trustees in writing.

SIGNATURE.....

NAME.....

DESIGNATION.....

(Duly constituted attorney for and on behalf of)

BANK.....  
.....

BRANCH.....(OFFICIAL SEAL OF THE BANK)

## ANNEX-IV

### FORM OF AGREEMENT

THIS AGREEMENT is made on the \_\_\_\_\_ day of 2016 between Bhorsagar Port Limited, 15 Strand Road, Kolkata, 700001, hereinafter called "the Employer" of the one part and (Name of Consultant)\_\_\_\_\_. Mailing address of the consultant\_\_\_\_\_.  
\_\_\_\_\_ hereinafter called "the consultant" of the other part.

WHEREAS the Employer is desirous that certain tasks be performed viz. Proposal for Consultancy Services for Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and bid documents for Development of a Deep-Sea Port at Tajpur, West Bengal and has accepted a proposal by the "Consultant" as referred in the assignment NOW THIS AGREEMENT WITNESSETH as follows:

1. In this agreement words and expression shall have the same meaning as are respectively assigned to them in the Conditions of Proposal Document hereinafter referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:

a) The Proposal Document for Consultancy Services for Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep-Sea Port at Tajpur, West Bengal as issued by the Employer.

b) All amendments to the Proposal Document for Consultancy Services for Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep-Sea Port at Tajpur, West Bengal as issued by the Employer prior to submission of the bids.

a) Acceptance letter issued by the Employer vide No.\_\_\_\_\_ dated\_\_\_\_\_ and all correspondence exchanged between the Employer and the consultant upto the date of issue of acceptance letter as specifically referred to in the said acceptance letter.

3. In consideration of the payment to be made by the Employer to the Consultant as hereinafter mentioned, the Consultant hereby covenants with the Employer to execute and complete the works in conformity in all respects with the provisions of the contract.

4. The Employer hereby covenants to pay the consultant in consideration of the execution, completion, of the works the consultancy charges/fees at the times and in the manner prescribed in financial proposal.

IN WITNESS WHEREOF the parties hereto have caused their respective Common Seals to be hereunto affixed (or have hereunto set their respective hands and seals) the day and year first above written.

SIGNED, SEALED AND DELIVERED

By the said

By the said

\_\_\_\_\_

\_\_\_\_\_

Name\_\_\_\_\_

Name\_\_\_\_\_

on behalf of the Consultant

on behalf of the Employer

in the presence of:

in the presence of:

\_\_\_\_\_

\_\_\_\_\_

Name\_\_\_\_\_

Name\_\_\_\_\_

Address\_\_\_\_\_

Address\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*



## ANNEXURE - V

### FORMAT IN CASE OF JOINT VENTURE/CONSORTIUM AGREEMENT

(To be submitted on stamp paper)

This Joint venture/consortium agreement is made at \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_ 2017 between M/s. \_\_\_\_\_ (please indicate the status viz. Proprietor, firm, Company) represented through its proprietor /partner or Director (hereinafter referred to as “first Party” ) and M/s. \_\_\_\_\_ (Please indicate the status viz. Proprietor, Firm, Company ) represented through its proprietor /partner or Director ( hereinafter referred to as “Second Party”) WHEREAS the First party is engaged in the business of \_\_\_\_\_

AND WHEREAS THE Second Party is engaged in the business of \_\_\_\_\_

AND WHEREAS both the parties are desirous of entering into a joint venture /consortium for carrying on the work of BHOR SAGAR PORT LIMITED in connection with work of \_\_\_\_\_ (please mention the work of the tender).

AND WHEREAS the First Party and Second Party have agreed to form joint venture/consortium for execution of subject works.

NOW THIS DEED WITNESSED AS UNDER:

a. That under this Joint Venture/consortium Agreement the work will be done jointly by the first party and second party in the name and style of M/s \_\_\_\_\_.

b. It is further agreed by the Joint Venture/consortium Partner that \_\_\_\_\_ of M/s. \_\_\_\_\_ has been nominated as Lead Partner for the execution of the works.

c. That all the parties shall be liable jointly, equally and severally for the satisfactory execution of the contract in all respect in accordance with terms and conditions of the contract and the lead partner shall be authorised to incur liabilities and receive instruction for and on behalf of any and all the partners and parties of the Joint Venture/consortium and the entire execution of the contract including payment shall be done exclusively with the lead partner.

d. THE PROPOSED PARTICIPATION SCOPE OF ACTIVITIES TO BE PERFORMED AND RESPONSIBILITIES OF EACH:

The proposed administrative arrangement, participation, scope of activities to be performed and responsibilities for the execution of the work of the each party shall be as under:

First Party:

Second Party:

e. The turnover and experience of each party is as under:

First Party:

Second Party:

f. Subject to Clause-4, the parties shall depute their experienced staff as required for the works and plants, equipment, machinery etc. as requires for execution of works, will be deployed by each Joint Venture/consortium partners for execution of the contract.

g. In the event of default by any partner in the execution of the part of the contract, the Lead Partner will have the authority to assign the work to any other party acceptable to the Kolkata Port Trust to ensure the satisfactory execution of that part of the contract.

h. The Registered Office of the Joint Venture/Lead Partner of the consortium shall be at \_\_\_\_\_

i. The Joint Venture/consortium shall regularly maintain in the ordinary course of business a true and correct account of all its incoming and outgoing and also of its assets and liabilities in proper books or account which shall ordinarily be kept at place of business and after Completion of above mentioned work all account shall be taken.

j. Opening and operation of Bank Account:

The Joint Venture/consortium shall open and maintain bank account(s) at \_\_\_\_\_  
\_\_\_\_\_The Lead Partner as mentioned in Clause (2) above shall have the power to receive the payments on behalf of the Joint Venture/consortium and to give discharge on behalf of the Joint Venture/consortium.

IN WITNESS WHEREOF the Parties hereto have signed hereunder at \_\_\_\_\_on this  
\_\_\_\_\_day of \_\_\_\_\_

Party of First Part

Party of Second Part

Witness:

1)

2)

## Annexure-VI (A)

### POWER OF ATTORNEY

#### Format For Power Of Attorney For Lead Member Of Consortium

(To be executed before Notary Public on a Non-Judicial Stamp Paper of at least Rs 10 )

Dated: -----

TO WHOMSOEVER IT MAY CONCERN Mr.....(Name of the Person(s)), domiciled at ..... (Address), acting as.....(Designation and name of the company), and whose signature is attested below, is hereby appointed as the Lead member and authorised on behalf of ----- -(Name of the applicant) to provide information and respond to enquiries etc. as may be required by the Employer for the project of (Project title).....and is hereby further authorised to sign and file relevant documents in respect of the above.

(Attested signature of Mr.....) For..... (Name & designation of the member of joint venture/Consortium)

- Individual power of attorney for signing the joint venture/Consortium shall be submitted in the above format separately by each applicant.

## **Annexure-VI (B)**

### Format For Power Of Attorney For Lead Member Of Consortium

(To be executed before Notary Public on a Non-Judicial Stamp Paper of at least Rs 10 )

#### POWER OF ATTORNEY

Whereas BHOR SAGAR PORT PVT LTD (“the Authority”) has invited tenders from interested parties for “.....” (Tender No. ....).

Whereas, ....., ....., ..... And ..... (collectively the “ Consortium”) being members of the Consortium are interested in bidding for the Tender in accordance with the terms and conditions of the Tender Document and other connected documents in respect of the said tender, and

Whereas, it is necessary under the Tender Document for the members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Tender and its execution.

#### **NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS**

We, M/s. .... having our registered office at ....., M/s..... having our registered office at ....., M/s. .... having our registered office at ....., and M/s. .... having our registered office at ....., [the respective names and addresses of the registered office] (hereinafter collectively referred to as the “Principals”) do hereby designate, nominate, constitute, appoint and authorize M/s. .... having its registered office at ....., being one of the members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorize the Attorney to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Contract, during the execution of the contract, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid(s) for the tender, including but not limited to signing and submission of all applications, bids and

other documents and writings, participate in Pre Bid and other conferences/meetings, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of bid(s) of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid(s) for the tender and/or upon award thereof till the Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us / Consortium.

IN WITNESS HEREOF WE HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS .....  
DAY OF .....20\*\*

For .....

.....

(Name & Title)

For .....

.....

(Name & Title)

For .....

.....

(Name & Title)

Witnesses:

1.

2.

.....

(To be executed by all the members of the Consortium)

## **ANNEXURE VII**

Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep Sea Port at Tajpur, West Bengal

### **UNDERTAKING**

We hereby give an undertaking that I/We have not made any payment or illegal gratification to any person/authority connected with the bid process so as to influence the bid process and have not committed any offense under the Prevention of Corruption Act in connection with the above subject bid.

Signature of Bidder with Stamp and date

## ANNEXURE-VIII

### Joint Bidding Agreement

*(To be executed on Non-Judicial Stamp Paper of at least Rs. 60/-)*

THIS JOINT BIDDING AGREEMENT is entered into on this the ..... day of ..... 20...

#### AMONGST

1. {..... Limited, 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. {..... Limited, 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. {..... Limited, 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)}

#### AND

4. {..... Limited, a company incorporated under the Companies Act, 1956 and having its registered office at ..... (hereinafter referred to as the “**Fourth Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}

The above mentioned parties of the FIRST, SECOND, {THIRD and FOURTH} PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

#### WHEREAS,

- A. [BHOR SAGAR PORT LIMITED , a Special Purpose Vehicle (SPV) with share of Kolkata Port Trust (BHOR SAGAR PORT PVT LTD) and Govt. Of West Bengal is in the ratio of 74:26 (hereinafter to be called the Authority) and having Principal Office at 15, Strand Road, Kolkata-700001 (hereinafter referred to as the “**BHOR SAGAR PORT PVT LTD**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited offers by its Request through NIT No. .... dated .....(the “**TENDER DOCUMENT**”) for selection of successful tenderer for the contract as proposed in the said tender document.
- B. The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the tender document and other documents in respect of the work, and

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

**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 tender document.

**2. Consortium**

- 2.1. The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Tendering Process for the Work.
- 2.2. The Parties hereby undertake to participate in the Tendering Process only through this Consortium and not individually and/ or through any other consortium constituted for this work, either directly or indirectly or through any of their Associates.

**3. Covenants**

The Parties hereby undertake that in the event the Consortium is declared the successful tenderer and awarded the contract, it shall incorporate a special purpose vehicle (the “**SPV**”) under the Indian Companies Act 1956 for entering into an Agreement with the KoPT and for performing all its obligations as the successful tenderer in terms of the Agreement for the Project.

**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 Lead member 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 tendering process and till all the obligations of the SPV shall become effective;
- (a) Party of the Second Part shall be {the Technical Member of the Consortium ;}
- (b) {Party of the Third Part shall be the Financial Member of the Consortium; and}
- (c) {Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.}

**[Note: Status of the members in (b), (c) and (d) are only illustrative. More / less parties may form the Consortium and changes may be made accordingly to the JBA]**

**5. Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the work and in accordance with the terms of the tender document till completion of the contract.

**6. Shareholding in the SPV**

- 6.1. The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:



First Party:

Second Party:

{Third Party:}

{Fourth Party:}

- 6.2. The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till completion of two years from the date of commencement of the contract, be held by the Parties of the First, {Second and Third} Part whose experience and net-worth have been reckoned for the purposes of pre-qualification in terms of the tender document.
- 6.3. The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times till completion of two years from the date of commencement of the contract.
- 6.4. The Parties undertake that they shall comply with all the requirements as stipulated in the tender document vide N.I.T. No. .... dated .....

## **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 to enter into this Agreement with KoPT;
- 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 KoPT to execute this Agreement on behalf of the Consortium Member 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 authorization, approval, judgment, 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 or business of such Party in the fulfilment of its obligations under this Agreement.

## 8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the contract is achieved under and in accordance with the terms of the tender, in case the contract is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the work or does not get selected for award of the contract, the Agreement will stand terminated in case the Tenderer is not pre-qualified or upon return of the Earnest Money by the BHOR SAGAR PORT PVT LTD to the Bidder, as the case may be.

## 9. Miscellaneous

9.1. This Joint Bidding Agreement shall be governed by laws of India.

9.2. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the BHOR SAGAR PORT PVT LTD.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART by:

FOURTH PART by

(Signature)

(Signature)

(Name)

(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 and KoPT to execute this Agreement on behalf of the Consortium Member.
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.

---

## APPENDIX - A

### KEY PERSONNEL AND SUB-CONSULTANT

The Project Team shall include, but not be limited to, at least the following Key Experts:

(a) Team Leader Cum Project Coordinator	
Educational Qualification	Graduate/ Post Graduate in Civil Engineering
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.
(b) Technical Expert	
Educational Qualification	Graduate/ Post Graduate in Civil Engineering
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 operation sand 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.
(c) Mechanical Expert	
Educational Qualification	Post Graduate/Graduate in Mechanical Engineering.
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.
<b>(d) Traffic Expert</b>	
Educational Qualification	Post-Graduation in Engg. or Mathematics or Economics or Statistics or MBA (Finance/ logistics)
Essential Experience	Minimum 15 years in traffic surveys and studies, traffic forecast of different cargoes for planning of Port facility, vessel trend analysis for cargo transportation, computation of No. of vessel movements etc. on Port projects or any of the projects in the Transport Sector like Airports, Road & railways etc. He should have worked as a Traffic Expert for minimum three similar Assignments.
<b>(e) Economist / Financial Expert</b>	
Educational Qualification	M.B.A in Finance or Chartered accountant with exposure to Port logistics
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.
<b>(f) Environmental Expert</b>	
Educational Qualification	Master's Degree in Environmental Engineering or Masters Degree in Environmental Science or Degree in Civil Engineering with Master's Degree in Environmental Sciences
Essential Experience	Minimum 10 years' experience in environmental studies or social studies relevant to Port projects and or infrastructure projects in Transport Sector like Sea ports, Airports, Road and Railways etc, conversant in preparation of EIA/EMP Reports, or Social studies etc. He should have worked as an Environmental Expert for minimum three similar Assignment.
<b>(g) Geotechnical Expert</b>	
Educational Qualification	Master Degree in Geotechnical Engineering
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.
--	---

Note: (1) The consultant shall provide sufficient technical experts / staff to complete this assignment in time. In case progress of assignment demands additional personnel to cope with the situation, Consultants have to deploy additional personnel at no extra cost to the Employer.

(2) The consultant should upload all the scanned copies of the certificates of the Key Personnel along with their CV in support of their qualification

## **APPENDIX - B**

### **HOURS OF WORK FOR KEY PERSONNEL**

Working hours of key personnel shall normally be 8 hours a day and six days a week. Hours of key personnel should broadly match with those of Client. However, the consultant has to complete the job in prescribed time frame and client shall not make any payment for any overtime except in case of work arising from clients variation orders.

## APPENDIX - C

### FORM FOR REFUND OF EARNEST MONEY DEPOSIT

1. Name of the Contractor :	
2. Name of the work :	
3. Bank Acknowledgement with other details :	
4. Reasons for the refund :	
5. Amount of the E.M.D. (In INR)	

Passed for Rs..... only.

Authorised Signatory,

Bhor Sagar Port Limited

Received Rs..... (Rupees ..... ) only.

Signature of the Contractor

With full Address

(Affix a revenue stamp)



## **APPENDIX - D**

On Non-judicial Stamp Paper of at least Rs.50/-

### **INTEGRITY PACT**

Between

Bhor Sagar Port Limited (BHOR SAGAR PORT PVT LTD) hereinafter referred to as  
“The Principal/ Employer”

And

.....hereinafter referred to as “The  
Bidder/Contractor”.

### **Preamble**

The principal intends to award, under laid down organizational procedures, contract/s for.....The Principal values full compliances with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/ or contractor(s).

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM) appointed by the principal, will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

### **NOW, THEREFORE**

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence / prejudiced dealings prior to, during and subsequent to currency of the contract to be entered into with a view to :-

Enabling the PRINCIPAL / EMPLOYER to get the contractual work executed and / or to obtain / dispose the desired said stores / equipment at a competitive price in conformity with the defined specifications / scope of work by avoiding the high cost and the distortionary impact of corruption on such work / procurement /disposal and Enabling BIDDERS /CONTRACTORS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will abstain from bribing and other corrupt practices and the PRINCIPAL/EMPLOYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

### **Section 1- Commitments of the Principal/employer.**

(1) The Principal commits itself to take measures necessary to prevent corruption and to observe the following principles:-

- a. No employee of the Principal, personally or through family members, will, in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
- b. The Principal will, during the tender process, treat all Bidder(s) with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
- c. The Principal will exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code (IPC)/ Prevention of Corruption (PC) Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

### **Section 2- Commitments of the Bidder(s)/Contractor(s)**

(1) The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

- a. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- b. The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non- submission of bid or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- c. The Bidder(s)/Contractor (s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/Contractor(s) will not use improperly, for purpose of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details including information contained or transmitted electronically.

d. The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representative in India, if any. Similarly the Bidder(s)/Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the “**Guidelines on Indian Agents of Foreign Suppliers**” shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines, all the payments made to the Indian Agent/representative have to be in Indian Rupees only. Copy of the Guidelines on Indian Agents of foreign Suppliers is annexed and marked as **Annexure-P**.

e. The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

(2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 - Disqualification from tender process and exclusion from future contracts.**

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as considered appropriate.

### **Section 4 - Compensation for Damages.**

(1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand the recover the damages equivalent to Earnest Money Deposit / Bid Security.

(2) If the Principal has terminated the contract according to Section 3 or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the contract value or the amount equivalent to Performance Bank Guarantee.

### **Section 5- Previous transgression.**

(1) The Bidder declares that no previous transgressions occurred in the last 3 years from the date of signing the Integrity Pact with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Undertakings /Enterprise in India, Major Ports, / Govt. Departments of India that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as considered appropriate.

**Section 6- Equal treatment of all Bidders / Contractors/ Subcontractors.**

(1) The Bidder(s)/ Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

(2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and subcontractors.

(3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section7 - Other Legal actions violating Bidder(s)/Contractor(s)/ Sub contractor(s).**

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

**Section 8- Role of Independent External Monitor (IEM).**

(a) The task of the monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.

(b) The monitors shall not be subject to instructions by the representatives of the parties and shall perform their functions neutrally and independently.

(c) Both the parties accept that the Monitors have the right to access all the documents relating to the contract.

(d) As soon as the Monitor notices, or has reason to believe, a violation of this pact, he will so inform the authority designated by the Principal and the Chief Vigilance Officer of Kolkata Port Trust.

(e) The BIDDER / CONTRACTOR(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the PRINCIPAL including that provided by the BIDDER / CONTRACTOR. The demonstration of a valid interest, unrestricted and unconditional access to his contract documentation, if any. The same is applicable to Sub-contractors. The Monitor shall be under contractual obligation to treat the information and documents of the Bidder / Contractor / Subcontractor(s) with confidentiality.

(f) The Principal / Employer will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor, the option to participate in such meetings.

(g) The Monitor will submit a written report to the designated Authority of Principal / Employer / Chief Vigilance Officer of Kolkata Port Trust within 8 to 10 weeks from the date of reference or intimation to him by the Principal / Employer / Bidder / Contractor and should the occasion arise, submit proposals for correcting problematic situation. BIDDER / CONTRACTOR can approach the Independent External Monitor (s) appointed for the purposes of this Pact.

(h) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or to take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

(i) If the Monitor has reported to the Principal substantiated suspicion of an offence under the relevant IPC/PCA and the Principal / Employer has not, within reasonable time, taken visible action to proceed against such offence or reported to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

(j) The word 'Monitor' would include both singular and plural.

### **Section 9 - Facilitation of Investigation:**

In case of any allegation o violation of any provisions of this Pact or payment of commission, the PRINCIPAL / EMPLOYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER / CONTRACTOR shall provide necessary information and documents **in English** and shall extend all possible help for the purpose of such examination.

### **Section 10 - Pact Duration:**

The pact begins with when both parties have legally signed it and will extend up to 2 years or the complete execution of the contract including warranty period whichever is later. In case bidder / contractor is unsuccessful this Integrity Pact shall expire after 6 months from the date of signing of the contract.

If any claim is made / lodged during this time, the same shall be binding and continue to the valid despite the lapse of this pact as specified above, unless it is

discharged / determined by the appropriate Authority of BHOR SAGAR PORT PVT LTD

**Section 11- Other provisions:**

- (1) This agreement is subject to Indian law. Place of performance and jurisdiction is the Registered Office of the Principal in Kolkata.
- (2) Changes and supplements as well as termination notices need to be made in writing in English.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners of consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the reminder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

\_\_\_\_\_  
\_\_\_\_\_

For & on behalf of the Principal)  
Bidder/Contractor)

(For & on behalf of

(Office Seal)

(Office Seal)

Place.....

Date.....

Witness 1:

(Name & Address) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Witness 2:

(Name & Address) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## APPENDIX E

### Bill of Quantity

**e-Tender Notice No- KoPT/Kolkata Dock System/CE/192/17-18/ET/465**

Item No	Description	Amount (In INR)*
1	Preparation of Techno-Economic Feasibility Report (TEFR), Detailed Project Report (DPR) and Bid Documents including Environment Impact Assessment and Environment Management Plan (EIA &EMP) for Development of a Deep Sea Port at Tajpur, West Bengal	
	In Words	

\*The price offer is inclusive of all taxes, incidentals, overheads, travelling expenses, printing and binding of reports, expenditure related to presentation to be made during the execution of the Consultancy Service, sundries and all other items involving expenditure for execution of this assignment covering scope of work as stipulated in "Terms of Reference" (enclosed as **Annex-I** to the Proposal Document) and excluding prevalent GST. This offer is valid for a period of **180 days** from the due date of submission of the proposal document.

**Signature of Power of Attorney Holder(s).....**

**Name: .....**



APPENDIX F

