

ADDENDUM-VI**Ref. SMPK/KDS/CIV/T/2549/81 , Dtd. 19.02.2021**

The following changes have been made on following vide this ADDENDUM-VI :

- i) APPENDIX – III of tender document
- ii) APPENDIX – IX of tender document

& wherever applicable of the tender document.

SL No.	Schedule Description	In Place of	To be read as
1	APPENDIX-III : Joint Bidding Agreement (Page 59 of tender document)	WHEREAS SYAMA PRASAD MOOKERJEE PORT KOLKATA, commissioned in 1989, represented by its Chief Manager-Traffic, Maharashtra	WHEREAS SYAMA PRASAD MOOKERJEE PORT KOLKATA, (hereinafter referred to as the “SMP KOLKATA”)
2	APPENDIX-IX : List of documents to be uploaded & submitted by the Tenderers (Page 72 of tender document)	At Page 72, Sl. No. (iv) At Page 72, Sl. No. (vii)	Amended APPENDIX – IX

Bidders are requested to upload this “ADDENDUM-VI” duly signed under office seal along with Techno-Commercial bid, i.e. cover-I offer as an acknowledgement and acceptance.

APPENDIX-III & APPENDIX-IX of Tender document to be submitted duly as per changes made vide this ADDENDUM-VI, dtd 22.04.2021.

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

**Superintending Engineer (Contract Cell)
For Chief Engineer**

SYAMA PRASAD MOOKERJEE PORT KOLKATA

APPENDIX-III

Joint Bidding Agreement

(To be executed on Stamp paper of appropriate value)

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

AMONGST

{.....Limited, a company incorporated under the Companies Act, 1956/2013} 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

{.....Limited, a company incorporated under the Companies Act, 1956/2013} 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

{.....Limited, a company incorporated under the Companies Act, 1956/2013} and having its registered office at (hereinafter referred to as the **"Third Part"** which expression shall, unless repugnant to the context include its successors and permitted assigns)}

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

WHEREAS

SYAMA PRASAD MOOKERJEE PORT KOLKATA, (hereinafter referred to as the "SMP KOLKATA")which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bid (the Bid") by its Request for Bid No.....

..... dated(the "Tender") for qualification and selection of Bidders for "....."

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 bid documents in respect of the Project, and

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 Bid.

NOW IT IS HEREBY AGREED as follows:

Definitions and Interpretations

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

Consortium

The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.

The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the "SPV") under the Indian Companies Act, 1956/2013 (as applicable) for entering into a "Contract Agreement" with the SMP KOLKATA and for performing all its obligations as the Operator in terms of the "Contract Agreement" for the Project.

Role of the Parties

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

Party of the First Part shall be the Lead member/Financial/Technical 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 Bidding Process and until the Appointed Date under the "Contract Agreement" when all the obligations of the SPV shall become effective;

Party of the Second Part shall be {the Technical Member of the Consortium;}

{(c) Party of the Third Part shall be the Operation & Maintenance Member of the Consortium; and}

Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the Tender and the "Contract Agreement", till such time as the Financial Close for the Project is achieved under and in accordance with the "Contract Agreement".

Shareholding in the SPV

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

First Party:

Second Party:

Third Party:

The Parties undertake that a minimum of 51% (Fifty One per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times, be held by the Lead bidder at all times during the Contract Period. Parties of the First, Second and Third Part whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the Tender shall have a minimum stake of 26% of the subscribed and paid up equity share capital of the SPV at all times till the fifth year after COD.

The Parties undertake that each of the Parties specified above shall, at all times between the commercial operation date of the Project and end of the Contract Period thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 10% (ten per cent) of the Total Project Cost.

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 in the Project.

The Parties undertake that they shall comply with all equity lock-in requirements set forth in the "Contract Agreement".

The Parties undertake that the O&M Member shall subscribe and hold at least 10% (Ten per cent) of the subscribed and paid up equity shares in the SPV in terms of the "Contract Agreement".

Representation of the Parties

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

Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and Authority to enter into this Agreement;

The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and Authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:

require any consent or approval not already obtained;

violate any Applicable Law presently in effect and having applicability to it;

violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
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

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;

this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

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.

Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the "Contract Agreement", in case the Project is awarded to the Consortium.

Miscellaneous

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

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the SMP KOLKATA.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SECOND PART by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART by:

(Signature) (Name)

(Designation) (Address)

In the presence of:

1.

2.

Notes:

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 executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

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 Authority to execute this Agreement on behalf of the Consortium Member.

Part – I: Techno-Commercial Bid**List of documents to be uploaded & submitted by the Tenderers**

The techno-commercial part of the offer shall contain the following:-

Sl. No.	On-line submission of the following
(i)	Scanned copies of DD of Tender Fee.
(ii)	Scanned copy of Authorization letter / Power of Attorney in favor of the signatory to the tender, as per APPENDIX-IV or APPENDIX-V as applicable
(iii)	Scanned copy of self certified IT return of the last financial year and Auditors certified turn over details for the last three financial years ending on 31 st March 2019 / 2020.
(iv)	Scanned copy of self certified last three years ending on 31st March 2019 / 2020 balance sheet and profit & loss account in support of Annual Financial turnover and the same should be audited as per relevant norms wherever required.
(v)	Scanned copy of self certified duly signed self declaration of the bidder as to the amount of admitted estate port dues (for all plates of the prospective tenderer in KDS and HDC) as on the day of NIT as per format given in Appendix – VI Note: In case of any estate port dues (for all plates of the prospective tenderer in KDS and HDC) as on the day of NIT as per format given in Appendix – V, the same should be cleared by the successful bidder within 30 days of issue of the Offer letter, failing which he will be declared disqualified for the tender and the offer letter will be treated as cancelled. In such case the EMD will also be forfeited in full.
(vi)	Scanned copy of self certified IT PAN Card/ TAN, GST number / GSTIN, EPF & ESI Registration certification.
(vii)	Scanned copy of self certified bidder's Bank details (i.e. name of bank & address, Current a/c No, IFS Code).
(viii)	Scanned copy of Self certified Partnership deed or Memorandum of Association & Article of Association , as applicable, for the bidder concerned.
(ix)	Scanned copy of self certified Certificate of Incorporation, Memorandum & Article of Association in case the tenderer is a company.
(x)	Declaration for Acceptance of Terms and Conditions of the Tender Document as per APPENDIX-I
(xi)	Letter comprising the Application for Submission of Bid – as per APPENDIX II
(xii)	Joint Bidding Agreement as per APPENDIX-III
(xiii)	Details of Bidders as per ANNEXE – I
(xiv)	Financial Capacity of the Bidder as per ANNEXE – II
(xv)	Details of Eligible Project as per ANNEXE – III
(xvi)	Statement of Legal Capacity as per ANNEXE – IV
(xvii)	Proof of Tender fees paid in the form of Screenshot or copy of Demand Draft as per ANNEXE -V

Sl. No.	On-line submission of the following
(xviii)	Scan copy of Proforma of Bid Security Declaration , as per ANNEXE-VI
(xix)	Minimum Eligibility Criteria (MEC) details as per ANNEXE-VII
(xx)	Self declaration of bidder for Port Dues as on date of NIT as per APPENDIX-VI
(xxi)	Format of Indemnity Bond as per APPENDIX-VII
(xxii)	Undertaking to be submitted in lieu of uploading/submitted signed copy of full tender document as per APPENDIX-VIII
(xxiii)	Declaration by Tenderer as per duly filled-in format for undertaking for not having been black-listed etc). as per APPENDIX-X
Off-line submission of:	
(xxiv)	Tender Fee in the way as mentioned in Tender document.
(xxv)	Any other hard copy of documents if required to be submitted as per ANNEXURE-I : Guidelines for submission of Techno-commercial & price bids and remittance of Tender fee.

Note : For all details of procedure for submission of Techno-Commercial & Price bids & remittance of Tender Fee , please refer to :
ANNEXURE-I : Guidelines for submission of Techno-commercial & price bids and remittance of Tender fee.