

HALDIA DOCK COMPLEX KOLKATA PORT TRUST

“Setting up of Floating Crane Facilities to increase lightening / topping up of cargo at Sagar / other deep draft locations in the water limit of Kolkata Port Trust for a period of 15 years.”

REQUEST FOR QUALIFICATION

**Administration Division
Haldia Dock Complex**

December 2015

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DISCLAIMER

The information contained in this Request for Qualification document (the “**RFQ**”) or subsequently provided to Applicant(s), whether verbally or in documentary or any other form, by or on behalf of KoPT or any of their employees or advisors, is provided to Applicant(s) on the terms and conditions set out in this RFQ and such other terms and conditions subject to which such information is provided.

This RFQ is not an agreement and is neither an offer nor invitation by KoPT to the prospective Applicants or any other person. The purpose of this RFQ is to provide interested parties with information that may be useful to them in the formulation of their application for qualification pursuant to this RFQ (the “**Application**”). This RFQ includes statements, which reflect various assumptions and assessments arrived at by KoPT in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFQ may not be appropriate for all persons, and it is not possible for KoPT, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQ. The assumptions, assessments, statements and information contained in this RFQ may not be complete, accurate, adequate or correct. Each Applicant should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFQ and obtain independent advice from appropriate sources.

Information provided in this RFQ to the Applicant(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. KoPT accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

KoPT, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFQ or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFQ and any assessment, assumption statement or information contained therein or deemed to form part of this RFQ or arising in any way with pre-qualification of Applicants for participation in the Bidding Process.

KoPT also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Applicant upon the statements contained in this RFQ. KoPT may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFQ.

The issue of this RFQ does not imply that KoPT is bound to select and short- list pre-qualified Applications for Bid Stage or to appoint the selected Bidder or Licensee, as the case may be, for the Project and KoPT reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by KoPT or any other costs incurred in connection with or relating to its Application. All such costs and expenses will remain with the Applicant and KoPT shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Bidding Process.

**HALDIA DOCK COMPLEX
KOLKATA PORT TRUST
ADMINISTRATION DIVISION**

REQUEST FOR QUALIFICATION

No. Ad / 0038/Floating Crane/8170

November 28, 2015

Global Invitation for Qualification for “Setting Up Of Floating Crane Facilities to increase lightening / topping up of cargo at Sagar/ other deep draft locations in the water limit of Kolkata Port Trust for a period of 15 years .”

Kolkata Port Trust (KoPT) invites Application from interested parties (Applicants) in accordance with the *Request for Qualification (RFQ) Document* in order to pre-qualify competent Applicants who can subsequently bid for the Project as per *Request for Proposal (RFP) Documents*. The estimated cost of the project is INR **34** Crores.

The RFQ Document containing brief scope of the Project, Instructions to Applicants and Evaluation Criteria, may be obtained from the office of the General Manager (M&S), Haldia Dock Complex, Kolkata Port Trust at Haldia on submission of a demand draft (non- refundable) of INR.20,000/- (plus INR 200/- for dispatch by courier/speed post) for domestic as well as foreign applicants through Demand Draft issued by any scheduled bank drawn in favour of Haldia Dock Complex, Kolkata Port Trust payable at Haldia before Application Due Date during office hours. The RFQ Document may be collected by an authorized representative. The RFQ Document can also be downloaded by the Bidders from the *website www.haldiadock.gov.in or www.kolkatapotrtrust.gov.in* and in such a case, the cost of the Documents viz. INR 20,000/- (INR twenty thousand only) shall be submitted in the form of demand draft along with their application. Applicants, who have downloaded the document from the website, should confirm in writing that they have downloaded the document from the website and provide details of contact person with the name, Postal address, Telephone No., Fax No. & E-mail ID.

Sale period: From Date of Sale of RFQ Document on any working day during working hours i.e., from 10:00 hours to 15:00 hours IST.

The completed Application in the required format containing all the information requested in the RFQ document shall be submitted the last date & time of submission of Application to the office of the General Manager (M&S), Haldia Dock Complex, Jawahar Tower, Haldia Township, Haldia – 721607, West Bengal, India. The validity of the Application shall be one hundred and Twenty (120) days from the due date of submission of application.

The schedule of different activities till submission of the applications is as under:

1	Sale of RFQ Document	December 1 st , 2015
2	Last date of receiving queries regarding RFQ	December 15 th , 2015
2	Date of Pre-Application Conference	11:00 Hours of December 22 th , 2015 at Jawahar Tower Conference Room
3	Last date of submission of Applications	14:00 hrs. on January 14 th , 2016
4	Date of Opening of RFQ Application	15:00 hrs. on January 14 th , 2016

FAX: +91-3224-263152
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**(A.K. Dutta)
General Manager (M&S)
Haldia Dock Complex**

ACKNOWLEDGEMENT

(To be returned to the following address on receipt of this document)

**The General Manager (M&S)
Haldia Dock Complex
Jawahar Tower Office Complex
Haldia Township - 721607
West Bengal, India.**

Name of Project:	Setting up of Floating Crane Facilities to increase lightening / topping up of cargo at Sagar/ other deep draft locations in the water limit of Kolkata Port Trust for a period of 15 years."
Request for Qualification Document collected by	(Name of the person)
Designation	
Name of the Organization	
Address	
Signature	
Date of Receipt	

GLOSSARY

Applicant(s)	As defined in Clause 4.1
Application	As defined in the Disclaimer
Application Due Date	As defined in Clause 6.4
Associate	As defined in Clause 5.1.3
Bids	As defined in Clause 4.3
Bid Due Date	As defined in Clause 4.3
Bid Security	As defined in Clause 4.4
Bidders	As defined in Clause 1.8
Bidding Documents	As defined in Clause 4.3
Bidding Process	As defined in Clause 4
Bid Stage	As defined in Clause 4.3
License Agreement	As defined in Clause 10.2.2
Conflict of Interest	As defined in Clause 5.1.3
Consortium	As defined in Clause 5.1.2
Estimated Project Cost	As defined in Clause 1.7
Financial Capacity	As defined in Clause 5.4.2
Government	Government of India
Lowest Bidder	As defined in Clause 4.5
Joint Bidding Agreement	As defined in Clause 5.5.6 (e)
Lead Member	As defined in Clause 5.5.6 (a)
LOA	Letter of Award
Member	Member of a Consortium
Net Worth	As defined in Clause Annex – III of Appendix - II
Project	As defined in Clause 1.6
PDPRSHINC	Pro-rata Daily Productivity Rate Sundays Holidays Included
Qualification	As defined in Clause 4.1
Qualification Stage	As defined in Clause 4.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in Clause 4.1
RFQ	As defined in the Disclaimer
SPV	As defined in Clause 5.5.2
Technical Capacity	As defined in Clause 5.4.1
Transloading Operation	As defined in Clause 1.4

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

1.0 INTRODUCTION:

1.1 Background

- 1.1.1 Haldia Dock Complex (HDC), Kolkata Port Trust (KoPT) has a vast economic hinterland comprising major Steel Plants of SAIL and TATA Steel, Power Plants of NTPC, CESC, WBPDC, high grade Iron Ore & Coal mines, local Sugar, Coke & Fertilizer manufacturing industries etc. and has tremendous potential to handle substantial volume of dry bulk cargo consisting of Coking Coal, Non coking Coal, Coke, Lime Stone, Fertilizer Raw Materials, Raw Sugar, Iron Ore etc.
- 1.1.2 In view of the capacity augmentation plans of the existing industries as well as setting up of new industries including steel plants, power plants etc. in the hinterland of HDC, it has been projected that HDC has potential to handle close to 90 million tons of cargo by 2019-20 subject to availability of adequate draft, capacity etc.
- 1.1.3 Keeping with the above cargo potential, KoPT has initiated action for upgrading its cargo handling capacity at the existing location of Haldia Dock Complex by way of constructing riverine Jetties both for handling Ships and Barges.
- 1.1.4 KoPT has received requests from the trade to set up Floating Crane facilities at Port Lighterage Area (PLA) at Saugor and other deep draft locations for transfer of dry bulk cargo between mother vessel and barges / daughter vessels. This will enable the trade to bring additional cargo matching with the draft available at Saugor / other deep draft locations. The said additional cargo after midstream transfer by Floating Crane will arrive at HDC berths along with the lightened mother vessel.
- 1.1.5 In view of the above and for providing efficient cargo transfer facilities at Saugor / other deep draft locations as also encouraging the importers / exporter to bring gearless ships, Haldia Dock Complex, Kolkata Port Trust intends to issue license for setting up of Floating Crane Facilities on common user basis.
- 1.1.6 KoPT intends to pre-qualify suitable Applicants who will be eligible for participation in the Bid Stage, for awarding the license through an open competitive bidding process in accordance with the procedure set out herein.
- 1.1.7 The selected bidder, who is either a company incorporated under the Companies Act, 2013 or undertakes to incorporate as such prior to execution of the licence shall be responsible for installation, operation, maintenance and management of the Floating Crane facilities on 15 year licence agreement to be entered into between the licensee and KoPT in the form to be provided by KoPT as part of the Bidding Documents pursuant hereto.
- 1.1.8 KoPT intends to give license for commissioning of Floating Cranes at the deep drafted location at Port Lighterage area in the water limit of Kolkata Port Trust for operation & maintenance of same for a period of 15 (Fifteen) Years from the date of commissioning of the floating cranes.

- 1.1.9 Bids will be invited for the Project on the basis of highest revenue share quoted by a Bidder for implementing the Project. The Project shall be awarded to the Bidder quoting the highest Revenue share.
- 1.1.10 KoPT intends to set up 2 Nos. of Floating Crane facilities by granting license to 2 distinctly different bidders having no conflict of interest. Both the licensees would share revenue with the port at the highest quoted rate. The bidder quoting the highest revenue share and accepted by the port would be considered as the first successful bidder. All the bidders, other than the highest bidder, shall be kept in reserve list in the descending order of their quoted rates and the second successful bidder would be identified from amongst them in accordance with the process specified in the RFP.

2.0 Scope of Work, major Obligations and Related Information:

The Service Provider (SP) shall, during the period of the license, set up, operate and maintain Floating Crane facilities and also undertake, perform and discharge other responsibilities and obligations at their cost, expenses, manpower and other arrangements as mentioned herein below :-

2.1 Supply, delivery, installation and commissioning, operation and maintenance of Floating Crane, Tug and other equipment for undertaking the following operations on round the clock basis on all the days in a year at the deep drafted locations within the limits of Kolkata Port Trust (hereinafter referred to as KoPT) more specifically mentioned at Appendix-I at the cost, charges, expenses, risk, manpower and arrangements of the licensee.

- i) Transfer of cargo in the midstream between the (i) sea going vessels, (ii) sea going vessels and sea going barges and (ii) sea going vessels and non sea going barges.
- ii) Cleaning of rib / frames and sweeping of cargo inside the hatches in case of import cargo, trimming of cargo inside the hatches in case of export cargo including sweeping of deck of the vessel / barges as may be required.
- iii) Shifting of the Floating Crane to the desired location and making fast the Floating Crane alongside the vessels for cargo transfer operations.

2.2 Apart from the functions as given at 2.1 above, the licensee shall also undertake the following operations / actions at his cost, charges, expenses, risk and manpower and arrangements:

- i) To ensure that the cargo, during transfer operations, does not fall into the water.
- ii) Undertaking other associated on board works (other than those specifically mentioned above) which may be required to be done for undertaking the cargo transfer operations.
- iii) Providing fresh water, ration, medical facilities etc. for the manpower to be deployed by the licensee for the operation of the Floating Crane, tug and other associated equipment / facilities.

2.3 The licensee shall supervise all the functions as mentioned at 2.1 & 2.2 above at its cost, charges, expenses, risk, manpower and other arrangements.

2.4 (i) The licensee shall carry out the operations relating to making fast of the Floating Crane, cargo transfer and other on-board functions under the provisions of the license in close coordination with KoPT, Master of the vessels/barges as well as representatives of other agencies involved.

(ii) The licensee shall provide & maintain a steel body launch for transportation of man & material from work location to shore & back over the entire tenure of contract at his cost, charges, expenses, risk, manpower and arrangements.

2.5 The licensee shall supply, install and commission the following minimum number of equipment/craft.

Equipment	Number to be deployed including specification	Primary operations to be performed	Other details
Floating crane	Self propelled barge with a crane mounted on the deck of minimum 35 Mt SWL (safe Working Load) with 36 m outreach, capable for handling vessels up to 32.2 m beam.	Transfer of cargo between the (i) sea going vessels, (ii) sea going barges and (ii) sea going vessels and non sea going barges	The floating cranes comprising the crane, self propelled Pontoon/barges and other associated facilities shall be new.
Grabs	25 cbm – 2 nos.	For facilitating cargo handling operation	New Grabs to be fitted.
Launch	1 No.	for transportation of man & material from work location to shore & back	The launch may be old but shall have all required certificates issued by the competent authority for to & fro movement in the open sea conditions within the limits of KoPT.

Note:

(i) The bidder shall indicate the tentative capacity, specification and make of the equipment which he intends to deploy at Appendix - V.

(ii) The cargo to be handled with the Floating crane facilities will predominantly comprise dry bulk cargo of all kinds besides occasional handling of break bulk cargo.

(iii) The vessels/ barges likely to be handled with the help of the Floating Crane will have maximum beam up to 32.3 mtrs.

- 2.6 The Floating Crane shall be owned or taken on lease or taken on hire by the licensee during the entire period of the license. The other equipment may be either owned or taken on lease/ hire basis for the entire period of the license. In case of hired/leasehold equipment, the licensee shall produce copies of relevant agreements.
- 2.7 The licensee shall maintain and comply with all necessary approvals, authorizations, licenses, statutory provisions necessary pursuant to Applicable Law for the performance of its obligations under the licence.
- 2.8 Licensee may undertake marketing initiatives to attract cargo for midstream transfer by their Floating Crane Facilities as per the scope of work mentioned at article 2.1 & 2.2 above and subject to provisions of article 2.10 below. KoPT will render all assistance to the Licensee in their marketing initiatives.
- 2.9 The Floating Crane and other infrastructure to be deployed by the Licensee shall have all required certificates issued by the competent authority.
- 2.10 The Licensee shall only do transfer operations of cargo to be destined / originating to / from the earmarked berths / jetties of HDC. In the event KoPT permits use of Floating Crane arrangement in respect of cargo destined / originating to/ from other ports/ places, the same will be as per terms and conditions as will be prescribed by KoPT from time to time and on payment of such charges.
- 2.11 The successful applicant shall, at its own cost, obtain and maintain valid statutory clearances and permissions as may be required as per law for operating the Floating Crane at a particular location within the water limit of KoPT.
- 2.12 The Licensee shall comply with the requirements of all the Acts, Laws, Statutes, Bylaws, Rules and Regulations for the purpose of fulfilling all the obligations of the License which shall include but not limited to the Major Port Trust's Act, 1963, the Indian Contract Act, the Dock Workers (Safety, Health & Welfare) Regulations, 1987, Motor Vehicles Act, Minimum Wages Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Industrial Dispute Act, 1947, Shops and Commercial Establishment Act, Factory Act, 1948, Workmen's Compensation Act, 1923, ESI Act, 1948, Payment of Wages Act, 1963, Bonus Act, Employees Provident Funds & Misc. Provisions Act, 1952 etc. and such other applicable Central / State Acts from time to time and take such steps as may be deemed necessary in this regard.
- 2.13 The Licensee shall, within 24 hours of the occurrence of any accident, at or about the work site or in connection with execution of the license, report such accidents to KoPT giving all the details. He shall also provide additional information about the accident as requested by the KoPT. The licensee shall report occurrence of any accident to the concerned authority of Inspectorate of Dock Safety positively within 24 hours of occurrence of the accident. The applicable rules, regulations and reporting formats in this regard shall be adhered to by the Licensee.

- 2.14 The Licensee shall, at all times during the currency of the License, ensure highest standards of safety to the equipment deployed and / or operated by them, vessels, people working on board as well as other properties of KoPT or other parties while discharging the obligations under the provisions of the licence. In case of accidents involving the floating crane, the licensee shall be accountable for all the liability and losses. The licensee shall be solely responsible for any damage to the Floating Crane, Port properties and human lives caused by the operation of the floating crane.
- 2.15 The Licensee shall minimise disruption to traffic in the event of accidents or other incidents affecting the safety and use of the Floating Crane Facilities by providing a rapid and effective response and maintaining liaison with emergency services of KoPT or other agencies;
- 2.16 In case of loss of life or injury caused to any person, while discharging the Scope of Work and other obligations of the License, the Licensee shall immediately pay the required compensation (as may also be decided by the statutory/ competent authority) to the affected party.
- 2.17 The Licensee will be responsible for the damage caused to the vessels / barges during cargo transfer operations by the Floating Crane arrangement for reasons attributable to the Licensee which, if occurred and claims raised, will have to be settled directly between the vessel / barge owner and the Licensee.
- 2.18 The Licensee shall keep KoPT indemnified throughout the period of the License for any loss, damage and expenses whatsoever which KoPT may suffer or may have to suffer due to fault on the part of the Licensee in operating and maintaining the Floating Crane arrangements and in discharging other obligations as per provisions of the License.
- 2.19 The Licensee shall have to take prior permission of KoPT for removing / replacing / altering any of the facilities so set up. KoPT shall normally grant such permission within a period of 7 days from the date of receipt of the request provided the same does not bring down the availability of minimum number of equipments as set out in clause 2.5.
- 2.20 The Licensee shall not utilize the Floating Crane facilities elsewhere outside the Project Site without the written permission of KoPT for any purpose whatsoever.
- 2.21 **Repairs and Maintenance**
- (i) The Licensee shall at its own cost, expenses, manpower and other arrangements:
- (a) repair as necessary and maintain the Floating Crane Facilities and Services or any part thereof to provide continued services and for this purpose carry out routine preventive measures and maintenance of the Floating Crane Facilities and Services including repairing and refurbishing of equipments; and

(b) Maintain the Floating Crane Facilities and Services in accordance with the provisions of the licence and Good Industry Practice with the objective of providing adequate service standards.

(ii) The Licensee is free to undertake preventive maintenance of the Floating Crane and other equipment when there is no requirement or during his permitted down time. In addition to that, one day in a month shall be permitted to the Licensee for preventive maintenance of the crane in consultation with the authorized person of KoPT. After completion of 2 years and onwards of operation, 2 days per month shall be permitted for preventive maintenance of the crane in consultation with the authorized person of KoPT.

(iii) The Licensee will be allowed a downtime of 45 days as follows upon commencement of commercial operation of the Floating Crane facilities for survey repair of the Floating Crane and the Tug. Such down time will be availed with prior permission of KoPT.

Equipment	Time from which the provision of down time will be allowed to be availed	Period of down time	Alternative arrangement during downtime
Floating Crane	30 months from the date of obtaining Commissioning Certificate and every 30 months thereafter.	45 days	It will be desirable that the licensee provides an alternative Floating Crane but the same is not mandatory. However, In case the licensee fails to redeploy the Floating crane after the stated period of 45 days and in absence of alternative Floating Crane, the liquidated damages shall be realized by KoPT as per provisions of cl.2.33(ii)
Launch	30 months from the date of obtaining Completion Certificate and every 30 months thereafter.	45 days	Replacement is to be provided.

2.22 Replacement of Equipment

The Licensee shall at its cost, expenses, manpower and other arrangements plan for replacement of the different items comprising the Floating Crane facilities well ahead of the time when the utility thereof is

reasonably expected to expire and replace those items in accordance with Good Industry Practice so as to ensure that the Floating Crane Facilities and Services fulfil the requirements of the trade and KoPT at all times during the License Period.

2.23 Repairs, Replacement or Restoration

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

2.24 Removal / Replacement / utilization of the Assets

Except as provided in the licence, the Licensee shall not, without the prior written intimation to KoPT, remove or replace any assets//equipment/item comprised in the Floating Crane Facilities and Services. Such notice shall contain the exact details of the assets that the Licensee intends to remove and/or replace its reasons for doing so and the likely period for undertaking such replacement.

2.25 Reports

The Licensee shall provide to KoPT, monthly reports on cargo traffic, cargo transfer rate, tariff (provisional) earned and collected in respect of Floating Crane Facilities and Services within 15 (fifteen) Days following the end of each Month, and any other information relating to operations which KoPT may require from time to time to enable KoPT to assess the Licensee's compliance with various obligations under the licence and also any information required by any Government Authority or competent authority. If so desired by the KoPT, the Licensee shall provide the reports in prescribed formats and in electronic form so as to provide online access to KoPT and its representatives.

2.26 Security Arrangements

The Licensee may make his own arrangements for security of the Floating Crane Facilities at the project Site.

2.27 Employment of Personnel

The Licensee shall employ qualified and skilled personnel required to operate the Floating Crane Facilities and Services. The terms of employment may be as deemed fit by the Licensee and the Licensee shall comply with all Applicable Laws and bear all costs in this regard. All employees of Licensee shall always remain the Licensee's responsibility.

2.28 Draft Survey & Customs Formalities

Quantity of cargo transferred between OGV and daughter vessels/ barges will be determined by draft survey at the Transfer Point.

2.29 Removal of equipments on completion:

On completion / termination of the license, the licensee shall remove all the equipments from the KoPT limit within a period of seven days.

2.30 Cargo Transfer Rate:

Transfer the dry bulk Cargo between the mother vessel and barges/daughter vessels shall be at a minimum transfer rate of 9400 ton on PWWDSHINC basis at the Transfer Point while the transfer rate for other cargo shall be at a minimum transfer rate of 5000 ton on PWWDSHINC. The method of calculating the transfer rate actually achieved is provided herein below:-

Total cargo transferred between mother vessel and the barges / daughter vessels x 24

Cargo Transfer Time (in hours)

2.31 Cargo Transfer Time (CTT)

- a) CTT will begin once the mother vessel and the barge / daughter vessel concerned are made fast along side the Floating Crane, survey and port formalities are completed, free pratique granted, hatches are opened and the mother vessel / daughter vessel / barge are ready for cargo transfer operations between them. The counting of time will be stopped once the transfer of cargo between the mother vessel and the daughter vessel / barges have been completed. Delays or stoppages a/c weather and other Force Majeure reasons as well as delays attributable to the mother vessel / daughter vessel / barges will be excluded from CTT.
- b) If after making fast the licensee finds that the mother vessel and / or daughter vessel / barges is / are not ready to unload / load cargo , the time interval between the time of making fast of the mother vessel and the daughter vessel / barges to actual time of readiness of transfer operations shall be excluded from the CTT.
- c) The time taken for carrying out sampling and initial, intermediate and final draft surveys shall not be counted as CTT.
- d) The time taken by the mother vessel / daughter vessel / barges for conducting final draft survey after completion of cargo transfer operations shall be excluded from CTT.
- e) Time lost by reason of bad weather if mentioned in the SOF duly signed by Master / Master's authorized agent preventing unloading / loading of cargo shall not be computed as CTT.
- f) All delays due to stoppage of work by licensee, or strike by the employees of or staff engaged by the licensee, will be on the account of licensee and shall not be deducted from the CTT.

- g) The initial opening and final closing of the hatches of the mother vessel/daughter vessel/barges always be done by the crews of the mother vessel/daughter vessel/barges and the time and cost involved therein and the time used for the opening and closing of the hatches, gangway placement, shall be to the account of the of the mother vessel/daughter vessel/barges. Any subsequent closing / opening of hatches if any done at the request of licensee, time taken for such closing / opening shall be to the account of license and shall not be deducted from the CTT.

2.32 Statement of Facts (SOF)

Immediately after completion of cargo transfer operations, and before the sailing of the Mother Vessel (OGV) from the Transfer Point, Statement of Facts shall be made out duly signed by Master of the Mother Vessel (OGV) and the authorized representatives of the Licensee's Floating Crane and Barge / Daughter Vessel and shall be distributed at the transfer point amongst the following concerns:

- a) Master of the vessel / agents of the vessel.
- b) Representative of Licensee
- c) Representative of the barge / daughter vessel

Note: The consignee / consigner, if so desires, may also depute their agents / representatives for signing of the SOF.

- d) The Cargo Transfer Time for the purpose of assessment of performance standard of the Floating Crane arrangement to fulfil the provisions of the Scale of Rates of the Floating Crane Charges shall be strictly calculated on the basis of SOF duly signed by the above said parties.

2.33 (i) **Time frame for setting up of Floating crane Facilities** – Within a period of 6 (six) months from the date of awarding LoA for creation of Floating Crane Facilities by KoPT.

(ii) **Compensation:** The successful applicant shall complete supply, installation and commissioning of the floating crane system within the time schedule given at 2.33 (i) above to the satisfaction of KoPT and obtain a Commissioning Certificate thereof from KoPT. In the event of failure to commission the floating crane system within the time schedule given at 2.33 (i) above, the successful tenderer shall pay to KoPT Rs 12000/- per day as compensation/ liquidated damages.

In case the delay exceeds 90 days from the last date of the commissioning schedule, KoPT shall be at liberty to proceed for terminating the contract.

2.32 KoPT's obligation

(i) KoPT will undertake scheduling of vessels for the purpose of cargo transfer by the licensee by its Floating Crane Arrangement and other associated marine related services on which the successful tenderer will have no say.

(ii) KoPT shall promptly grant approvals/ consents sought by the Licensee as may be required under the licence subject to the Licensee having complied with all Applicable Laws/requirements in this regard.

(iii) KoPT shall during the License Period provide to the Licensee all infrastructure facilities and utilities to the extent required for the implementation, operations and maintenance of the Floating Crane Facilities and Services in accordance with the licence, at rates and on terms no less favourable to the Licensee than those generally available to commercial customers availing substantially equivalent facilities and utilities.

3.0 Location of Transfer Point:-

Within the area at Sagar enclosed by Point A having Lat:- 21- 41- 59.684 N & Long:- 88- 01- 10.052 E, Point B having Lat 21- 42- 00.56 N & Long 88- 02- 00.32 E , Point C having Lat 21- 40- 48.685 N & Long 88- 01- 59.933 E and Point D having Lat 21- 40- 45.536 N & Long:- 88- 01- 09.912 E ,where cargo lightening operations are being presently undertaken within the limits of Kolkata Port Trust. It may be however be clarified that the successful bidder may also have to provide the services of the floating Crane Facilities at any feasible location within the round the year anywhere within the existing limits of Kolkata Port Trust notified by the Central Government is mentioned at Appendix- I.

4.0 The Bidding Process

- 4.1 The Authority has adopted a two-stage process (collectively referred to as the "**Bidding Process**") for selection of the bidder for award of the Project. The first stage (the "**Qualification Stage**") of the process involves qualification (the "**Qualification**") of interested parties / consortia who make an Application in accordance with the provisions of this RFQ (the "**Applicant**", which expression shall, unless repugnant to the context, include the Members of the Consortium). Prior to making an Application, the Applicant shall pay to KoPT a sum of Rs. 50,000/- (Rupees fifty thousand) as the cost of the RFQ process. At the end of this stage, KoPT will announce the list of prequalified Applicants who shall be eligible for participation in the second stage of the Bidding Process (the "**Bid Stage**") comprising Request for Proposals (the "**Request for Proposals**" or "**RFP**")
- 4.2 In the Qualification Stage, Applicants would be required to furnish all the information specified in this RFQ. Only those Applicants that are pre-qualified by KoPT shall be invited to submit their Bids for the Project. KoPT is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are, therefore, advised to familiarize themselves with the Project.
- 4.3 In the Bid Stage, the Bidders will be called upon to submit their financial offers (the "**Bids**") in accordance with the RFP and other documents to be provided by KoPT, (collectively the "**Bidding Documents**"). The Bidding Document for the Project will be provided to every qualified Bidder on payment of INR 20,000/- (INR twenty thousand only).The Bid shall be valid for a period of not less than 180 days from the date specified in Clause 4.12 for submission of bids (the "**Bid Due Date**").

- 4.4 In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security equivalent to INR 3, 40,000 (INR Three Lakh forty thousand only), refundable, without any interest, except in the case of the selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Agreement. The Bidders will have an option to provide **Bid Security** in the form of a demand draft or a bank guarantee acceptable to KoPT and in such event, the validity period of the demand draft or bank guarantee, as the case may be, shall not be less than 240 (two hundred and forty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between KoPT and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 4.5 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the license including implementation of the Project.
- 4.6 As part of the Bidding Documents, KoPT will provide for the Project a draft Licence Agreement and other information relevant to the Project available with it.
- 4.7 Bids will be invited for the Project on the basis of highest revenue share quoted by a Bidder for implementing the Project. The Project shall be awarded to the Bidder quoting the highest Revenue share. KoPT may however grant license to more than one bidder (maximum 2) who would match the rate of the highest bidder. As such all the bidders other than the highest bidder shall be kept in reserve and in accordance with the process specified in the RFP they may be invited to match the Bid submitted by the Highest Bidder.

In this RFQ, the term "**Highest Bidder**" shall mean the Bidder who is offering the highest Revenue Share.

- 4.8 (i) The selected bidder will levy predetermined charges within TAMP approved ceiling rates for undertaking transfer of cargo at the Cargo Transfer Point by the Floating Crane between the mother vessels (OGVs) and the daughter vessels/ Barges and vice-versa . This will be a single charge for transfer of cargo between mother vessel (OGV) and daughter (both for import and export cargo). The tariff will be productivity linked based on cargo transfer rate achieved.
- (ii) The selected bidder (s) will share revenue (as earned by levying tariff on the users of the facilities) with KoPT. The percentage of revenue to be shared will be determined in the bidding (RFP) Stage as mentioned at article 4.7 above.
- 4.9 The period of license will be for 15 years.
- 4.10 Further and other details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.
- 4.11 Any queries or request for additional information concerning this RFQ shall be submitted in writing by hand or by fax or by e-mail to the officer designated in Clause 6.3.5 below. The envelopes / communications shall clearly bear the following identification / title: "**Queries / Request for Additional Information concerning setting up of Floating Crane Facilities for Kolkata Port Trust.**"

5.0 Eligibility

5.1 Eligible Applicant

5.1.1 Any entity (either individually or in a consortium) fulfilling the eligibility criteria set forth below may apply.

5.1.2 The term 'Applicant' used in this document would apply to either a Single Entity or a group of entities, i.e. a Consortium. Further, the Applicant 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 Application Seeking Document.

5.1.3 The Applicant shall not have a conflict of interest that affects the Tendering Process. Any Applicant found to have a Conflict of Interest shall be disqualified. An Applicant shall be deemed to have a Conflict of Interest affecting the Tendering Process, if:

The applicant, its Member or Associate (or any constituent thereof) and any other Applicant, 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 an Applicant, 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 Applicant, its Member or Associate, as the case may be) in the other Applicant, 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:

5.1.3 (i) 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

5.1.3 (ii) Subject always to sub-clause 5.1.3(i) 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 5.1.3(ii) 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

- 5.1.3 (iii) A constituent of such Applicant is also a constituent of another Applicant;
OR
- 5.1.3 (iv) Such Applicant, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant, its Member or any Associate thereof; OR
- 5.1.3 (v) Such Applicant, has the same legal representative for purposes of this license granting process as any other Applicant; OR
- 5.1.3 (vi) Such Applicant, or any Associate thereof has a relationship with another Applicant, 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 license granting process of either or each other.
- 5.2 An Applicant shall be liable for disqualification if any legal, financial or technical adviser of KoPT in relation to the license granting process is engaged by the Applicant, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the license granting process. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Applicant, 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 Document. 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 Applicant, as used above, shall include each Member of such Consortium.

Note: Notwithstanding anything to the contrary contained in this Application Seeking 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 Letter of Award (LoA), the same shall have to be addressed and resolved by the Consortium, failing which the license if granted, 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 this document/license.

- 5.3 The Applicant(s) shall have valid documents as listed in various clauses of this document including those given at Clause 6.3.4 and submit the same in the manner provided under Clause 6 of this Application Seeking Document.
- 5.4 **ELIGIBILITY CRITERIA BASED ON TECHNICAL AND FINANCIAL EXPERIENCE:**

5.4.1 **TECHNICAL CAPACITY –**

For demonstrating technical capability and experience, the Applicant shall, over the past 5 (five) financial years preceding the Application Due Date, have:

- (i) operated and maintained floating crane(s) / transhipper(s) in one or more marine port terminal(s) and have handled at least 2.4 million tonnes of cargo in such facilities taken together during this period, or
- (ii) operated and maintained port based projects such as berth(s) / jetty (ies) / quay crane(s)/ transhipper(s) in one or more marine port terminal(s) and have handled at least 2.4 million tonnes of cargo in such facilities taken together of which 0.5 million tons shall be from floating crane operations, or
- (iii) operated and maintained port based projects such as berth(s) / jetty (ies) / quay crane(s)/ transhipper (s) in one or more marine port terminal(s) and have handled at least 2.4 million tonnes of cargo in such facilities taken together subject to an undertaking that in the event of their becoming successful bidder, they will enter into an agreement for entrusting operation of Floating crane facilities to an entity who have handled at least 0.5 million tons of cargo by floating crane facilities during the period of 5 (five) financial years preceding the Application Due Date

Note: (i) The technical eligibility as per 5.4.1(i)/(ii)/(iii) above of a Single Entity / Consortium members will be assessed by the arithmetic sum of facility wise experience taking all terminals together.

5.4.2 **FINANCIAL CAPACITY –**

The Applicant shall have a minimum Net Worth (the “**Financial Capacity**”) of INR 8.5 crores (Rupees Eight crores and fifty lakh) at the close of the preceding financial year

Note:- In case of a Partnership Firm, the combined Net worth of the partners should be equal to or more than the prescribed net worth. If it is a company, the net worth of the company should be equal to or more than the prescribed net worth. If it is a proprietorship firm, then net worth of the Proprietor should be equal to or more than the prescribed net worth.

5.4.3 **Evidences demonstrating past experience**

Applicants shall enclose with its application, to be submitted as per the format at Appendix - II complete with its Annexes, the following:

- (i) Certificate(s) from its statutory auditors or the concerned clients stating the technical experience gathered by the applicant (separately for each eligible consortium member) during the past 5 years in respect of the projects specified in clause 5.4.1 above; and.

(ii) Certificate(s) from its statutory auditors specifying the net worth of the Applicant, as at the close of the preceding financial year

5.5 Assessment of Eligibility

- 5.5.1 The applicant shall give details of his past experience as per format at Annex II of Appendix – II and Net Worth information as per Annex-III of Appendix – II.
- 5.5.2 In case of a Consortium, the combined Technical and financial experience 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)** shall be considered as eligible experience, provided that each such member shall, for a period of 2 (two) years from the date of commercial operation of the floating crane facilities, hold equity share capital not less than 26% (twenty six percent) of the subscribed and paid up equity of the SPV.
- 5.5.3 The entity claiming the past experience/ financial eligibility 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.
- 5.5.4 Past experience of the 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.
- 5.5.5 The applicant shall submit a Power of Attorney as per format given at Annex-VI of Appendix – II, authorizing the signatory of the applicant to submit the application.
- 5.5.6 Where the 'Applicant' is a 'Consortium', it shall be required to form an appropriate 'Special Purpose Vehicle' or SPV, incorporated under the Indian Companies Act 1956, to set up the Floating crane Facilities. 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 Annex-VII of Appendix – II, signed by all the other members of the Consortium;
 - (b) The application shall contain the information required for each member of the Consortium as per Annex-I of Appendix – II.

- (c) The applicant shall include a brief description of the roles and responsibilities of individual members of the consortium, particularly with reference to technical and financial obligations, as per Annex- I of Appendix – II.
- (d) An individual (single entity) Applicant participating in the instant project shall not be a member of any other Consortium participating in the instant project; further, a member of a particular Consortium shall neither submit any application individually nor shall be a member of any other Consortium participating in the instant project;
- (e) Members of the Consortium shall enter into a binding Joint Bidding Agreement (JBA) (substantiated in the form specified at Annex-VIII of Appendix – II), for the purpose of submitting application.
- (f) Except as provided in this Document, including its Addenda, if any, there shall not be any amendment to the said JBA without the prior written consent of KoPT.

5.5.7 The Single Entity participating in this project or all the members of the Consortium participating in this project 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 project / tender / contract / agreement of whatever kind. An undertaking in this regard shall be given by the applicant in the Covering Letter as per Appendix - II.

5.5.8 An applicant 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 application seeking document, 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 applicant, Consortium Member, 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 applicant, Consortium Member as per Appendix - II.

5.5.9 In computing the Technical Capacity and Financial Capacity of the Applicant / Consortium Members under Clause 5.4.1 & 5.4.2, 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 Applicant/Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant /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.

5.6 Change in composition of the Consortium

5.6.1 Change in the composition of a Consortium will not be permitted by KoPT during the Qualification Stage.

5.6.2 Where the Bidder is a Consortium, change in the composition of a Consortium may be permitted by KoPT during the Bid Stage, only where:

- (a) the application for such change is made no later than 15 (fifteen) days prior to the Bid Due Date;
- (b) the Lead Member continues to be the Lead Member of the Consortium;
- (c) the substitute is at least equal, in terms of Technical and Financial Criteria, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants; and
- (d) the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant / Member /Associate of any other Consortium bidding for this Project.

5.6.3 Approval for change in the composition of a Consortium shall be at the sole discretion of KoPT and must be approved by KoPT in writing.

5.6.4 The modified / reconstituted Consortium shall submit a revised Joint Bidding Agreement before the Bid Due Date.

5.6.5 Notwithstanding anything to the contrary contained in Clause 5.1.3, an Applicant may, within 10 (ten) days after the Application Due Date, remove from its Consortium any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

5.7 Number of Applications and costs thereof

5.7.1 No Applicant shall submit more than one Application for the Project. An applicant applying individually or as a member of a Consortium shall not be entitled to submit another application either individually or as a member of any Consortium, as the case may be.

5.7.2 The Applicants shall be responsible for all of the costs associated with the preparation of their Applications and their participation in the Bid Process. KoPT will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

5.8 Acknowledgement by Applicant

5.8.1 It shall be deemed that by submitting the Application, the Applicant has:

- (a) made a complete and careful examination of the RFQ;
- (b) received all relevant information requested from KoPT;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of KoPT and
- (d) agreed to be bound by the undertakings provided by it under and in terms hereof.

5.8.2 KoPT shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ or the Bidding Process, including any error or mistake therein or in any information or data given by KoPT.

5.9 **Right to accept or reject any or all Applications / Bids**

5.9.1 Notwithstanding anything contained in this RFQ, KoPT reserves the right to accept or reject any Application and to annul the Bidding Process and reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that KoPT rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh bids hereunder.

5.9.2 KoPT reserves the right to reject any Application and / or Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by KoPT, the supplemental information sought by KoPT for evaluation of the Application.

If the Applicant/Bidder is a Consortium, then the entire Consortium may be disqualified / rejected. If such disqualification/rejection occurs after the Bids have been opened and the Selected Bidder gets disqualified / rejected, then KoPT reserves the right to:

- (i) invite the remaining Bidders to match the Selected Bidder/ submit their Bids in accordance with the RFP; or
- (ii) take any such measure as may be deemed fit in the sole discretion of KoPT, including annulment of the Bidding Process.

5.9.3 In case it is found during the evaluation or at any time before signing of the License Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by KoPT, that one or more of the pre-qualification conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false

information, the Applicant shall be disqualified forthwith if not yet appointed as the Licensee either by issue of the LOA or entering into of the License Agreement, and if the Applicant/SPV has already been issued the LOA or has entered into the License Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ, be liable to be terminated, by a communication in writing by KoPT to the Applicant without KoPT being liable in any manner whatsoever to the Applicant and without prejudice to any other right or remedy which KoPT may have under this RFQ, the Bidding Documents, the License Agreement or under applicable law.

- 5.9.4 KoPT reserves the right to verify all statements, information and documents submitted by the Applicant in response to the RFQ. Any such verification or lack of such verification by KoPT shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of KoPT thereunder.

5.10 DOCUMENTS

5.10.1 Contents of the RFQ

This RFQ comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 5.12.

Invitation for Qualification

1. **Background.**
2. **Scope of Work & Relevant Information.**
3. **Location of Transfer Point.**
4. **The Bidding Process.**
5. **Eligibility.**
6. **Preparation & Submission of Application.**
7. **Evaluation Process.**
8. **Pre-Bid Conference.**
9. **Due Date & Time of Submission & Opening of Application.**
10. **Terms & Condition of the License.**
11. **Fraud and Corrupt Practices.**
12. **Miscellaneous.**

Appendices & Annexures

Appendices	Annexures	Description	Page No.
I		Notification of exiting limits of Kolkata Port Trust	37
II		Letter comprising the Application for Pre Qualification	39
III	I	Details of Applicant	42
	II	Past Experience of the Applicant	44
	III	Details of Financial Capability of the Applicant	47

	IV	Certificate from the Statutory Auditor regarding Technical Experience	48
	V	Statement of Legal Capacity	50
	VI	Power of Attorney for signing of Application	51
	VII	Power of Attorney for Lead Member of Consortium	53
	VIII	Joint Bidding Agreement	55
IV		Integrity Pact	59
V		Details of Floating crane, self propelled Barges, Tugs and other infrastructures committed to be deployed for the project.	66

5.11 Clarifications

5.11.1 Applicants requiring any clarification on the RFQ may notify KoPT in writing or by fax and e-mail in accordance with Clause 4.11. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 4.13. KoPT shall endeavour to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Application Due Date. The responses will be hosted in the KoPT websites with due notice in the leading National Dailies for information of intending Applicants without identifying the source of queries.

5.11.2 KoPT shall endeavour to respond to the questions raised or clarifications sought by the Applicants. However, KoPT reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring KoPT to respond to any question or to provide any clarification.

5.11.3 KoPT may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by KoPT shall be deemed to be part of the RFQ. Verbal clarifications and information given by KoPT or its employees or representatives shall not in any way or manner be binding on KoPT.

5.12 Amendment of RFQ

5.12.1 At any time prior to the deadline for submission of Application, KoPT may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ by the issuance of Addenda.

5.12.2 Any Addendum thus issued will be sent in writing to all those who have purchased the RFQ.

5.12.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, KoPT may, in its sole discretion, extend the Application Due Date.

6.0 PREPARATION AND SUBMISSION OF APPLICATION

6.1 Language

The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Applicant with the Application may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language, duly authenticated and certified by the Applicant. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

6.2 Format and signing of Application

6.2.1 The Applicant shall provide all the information sought under this RFQ. KoPT will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and / or conditional Applications shall be liable to rejection.

6.2.2 The Applicant shall prepare 1(one) original set of the Application (together with originals / copies of documents required to be submitted along therewith pursuant to this RFQ) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 1 (one) copy of the Application, along with documents required to be submitted along therewith pursuant to this RFQ, marked "COPY". The Applicant shall also provide 2(two) soft copies on Compact Disc (CD). In the event of any discrepancy between the original and the copy, the original shall prevail.

6.2.3 The Application and its copy shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall also initial each page in blue ink. In the case of printed and published documents, only the cover shall be initiated. All the alterations, omissions, additions or any other amendments made to the Application shall be initiated by the person(s) signing the Application. The Application shall contain page numbers and shall be hard bound.

6.3 Procedure for preparation and submission of application

6.3.1 The eligible applicants may go through the instructions appended herewith for submission of their application.

6.3.2 In case of a Consortium, the tender shall be submitted in the name of the Lead Member of the Consortium.

6.3.3 Language: The application and all related correspondences and documents shall be written in English Language.

6.3.4 The application completed in all respects along with all required Annexes properly filled in and signed with seal shall be submitted in duplicate in two parts separately in TWO SEALED COVERS as follows:

- (i) FIRST SEALED COVER duly superscripted as 'Cost of RFQ Process' as well as Name of Applicant and Application Subject should contain Original Demand Draft/Banker's Cheque/Pay Order in connection with Cost of RFQ Process.

- (ii) SECOND SEALED COVER duly superscripted as 'Techno- Commercial Part' as well as Name of Applicant and Application Subject should contain:
 - (a) Profile of the applicant (or of each member in case of a Consortium) as per Annex- I of Appendix – III duly filled in & signed
 - (b) Power of Attorney duly filled in and signed as per Annex- VI & Annex VII (in case of Consortium only),
 - (c) Audited Annual Accounts for the last completed financial year, (for each member in case of a Consortium) supported by a Certificate from a Chartered Accountant, to show the Financial Capability of the applicant as per Annex- III of Appendix - III.
 - (d) Certified copy of Certificate of Incorporation, Memorandum & Article of Association of the Tenderer. In case of consortium, such should be submitted for all Consortium members, as applicable
 - (e) Details of Operational & Financial eligibility as per Annex – II and Annex-III of Appendix – III supported by Chartered Accountant's Certificate.
 - (f) Joint Bidding Agreement (JBA) in case of Consortium as per format given at Annex-VIII of Appendix – III.
 - (g) Details of Floating Crane(s) committed to be put into operation as per Appendix – V.
 - (h) Details of Tugs, Fenders and other infrastructure committed to be put into operation as per Appendix – V.
 - (i) Detailed Work Plan for fulfilling the Scope of Work using proposed / committed infrastructure.

- (iii) OUTER SEALED COVER:

All the above 2 (two) sealed covers together with a Covering Letter as per format given at Appendix - II shall be again enclosed in an outer cover and sealed, which should be superscripted with Name of Applicant and Application Subject. In other words, the outermost cover shall contain two separate sealed covers i.e., (i) Earnest Money and (ii) Techno-Commercial Part.

Note: Mere submission of Application will not mean that the particular application will be automatically considered qualified. Such qualification will be examined at the time of evaluation of offers.

6.3.5 Each of the envelopes shall be addressed to:

GENERAL MANAGER (M&S),
HALDIA DOCK COMPLEX
JAWAHAR TOWER
HALDIA TOWNSHIP – 721 607
WEST BENGAL (INDIA)
FAX NO : +91-3224-263152
PHONE : + 91-3224-263171
MOBILE : +91-94340-63171

6.3.6 If the envelopes are not sealed and marked as instructed above, KoPT assumes no responsibility for the misplacement or premature opening of the contents of the Application and consequent losses, if any, suffered by the Applicant.

6.3.7 Applications submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

6.4 Application Due Date

6.4.1 Applications should be submitted before 13:00 hours IST on the Application Due Date, at the address provided in Clause 6.3.5 in the manner and form as detailed in this RFQ. A receipt thereof should be obtained from the person specified in Clause 6.3.5.

6.4.2 KoPT may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 5.12.3 uniformly for all Applicants.

6.5 Late Applications

Applications received by KoPT after the specified time on the Application Due Date shall not be eligible for consideration and shall be summarily rejected.

6.6 Modifications / substitution / withdrawal of Applications

6.6.1 The Applicant may modify, substitute or withdraw its Application after submission, provided that written notice of the modification, substitution or withdrawal is received by General Manager (M&S), Haldia Dock Complex prior to Application Due Date. No Application shall be modified, substituted or withdrawn by the Applicant on or after the Application Due Date.

6.6.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 6.3, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

6.6.3 Any alteration / modification in the Application or additional information supplied subsequent to the Application Due Date, unless the same has been expressly sought for by KoPT, shall be disregarded.

6.7. Validity of Application:-

6.7.1 120 days from the Application Due Date.

6.7.2 Prior to expiry of the tender validity period, KoPT may request the Tenderer to extend the validity period for a specified additional period.

7 Evaluation Process

7.1 Tests of Responsiveness:

Prior to evaluation of the Applications, KoPT will determine whether each application is responsive to the requirements as per this Document. An application shall be considered responsive if the application-

- (i) is received by the due date and time including extension thereof, if any,
- (ii) is signed, sealed and marked as stipulated in this Document,
- (iii) is accompanied by the required covering letter,
- (iv) is accompanied by the required Power of Attorney(s),
- (v) contains all the pages of this Document including the Addendum, if any, duly signed with seal as stipulated in this Document,
- (vi) contains all the documents, information, certificates etc as requested in this Document,
- (vii) contains information/details in Formats as specified in this Document,
- (viii) is accompanied by certificates of Chartered Accountant / Certified Public Accountant and other authorities regarding past experience and financial capability as applicable.
- (ix) is accompanied by Joint Bidding Agreement as per format given at Annex-VII of Appendix – III (in case of Consortium).
- (x) is accompanied by detailed work plan for fulfilling the scope of work using proposed / committed infrastructure.

- (xi) does not show inconsistencies between the details submitted in this application and the supporting documents,
- (xii) has not proposed any deviation in the application as compared to the terms & conditions, scope of work etc. as detailed in this Document together with subsequent amendment(s)/ modifications(s) thereof made through issuance of Addenda.
- (xiii) does not have any other inconsistency(ies) in the application submitted by the applicant.

7.2 Evaluation of Application:

The application found responsive as per clause- 7.1 above will then be evaluated as per eligibility criteria as detailed in this document.

Note:

- (i) KoPT reserves the right to get the financial capability of the Applicant verified from the Annual Account of the Applicants (to be submitted along with Techno- Commercial Part) and in case some discrepancy is found, the details as will be ascertained by KoPT shall prevail for evaluation purpose.
- (ii) KoPT, by its own means, may also separately ascertain the past experience of the applicant from the Marine Port Terminals/ Authorities / Importers / Exporters concerned where the applicant have acquired the eligible experience. In case, any discrepancy is found, the details as will be ascertained by KoPT shall prevail for evaluation purpose.
- (iii) Mere submission of application shall not mean that it will be automatically considered qualified and entertained. Such qualification will be done at the time of evaluation of applications as detailed above

7.3 Clarifications:

To assist in the process of evaluation of application, KoPT may, at its sole discretion, ask any applicant to provide additional documents/details, seek clarifications in writing from any applicant regarding its application. The request for providing such additional details/documents and/or clarification and the response shall be in writing. KoPT reserves the right to reject any offer which is non-responsive.

7.4 Confidentiality:

Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising KoPT in relation to, or matters arising out of, or

concerning the Bidding Process. KoPT will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. KoPT may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or KoPT or as may be required by law or in connection with any legal process.

7.5 Evaluation of RFQ;

The techno commercial offers of the applicant found responsive as per Clause 5.1 above will then be evaluated as per eligibility criteria as detailed in this RFQ document.

Note:

(i) KoPT reserves the right to get the financial capability of the applicant verified from the Annual Accounts of the bidders (to be submitted along with RFQ) and in case some discrepancy is found, the details as will be ascertained by KoPT, shall prevail for evaluation purpose.

(ii) KoPT, by its own means, may also separately ascertain eligible technical experience of the Tenderer from the organizations concerned where the applicants have acquired the eligible experience. In case, any discrepancy is found, the details as will be ascertained by KoPT shall prevail for evaluation purpose.

(iii) Mere submission of offer shall not mean that it will be automatically considered qualified and entertained. Such qualification will be done at the time of evaluation of offers as detailed above.

8.0 Pre-application Conference:

8.1 A pre-application conference will be held at 1100 hours on **22nd December** at Jawahar Tower Conference Room; Haldia Dock Complex (HDC); Haldia Township; Purba Medinipur; PIN – 721607. The Pre-Application conference will be followed up with an inspection of site to enable the intending bidders a comprehensive understanding of the project.

8.2 The intending applicant are advised to formulate their queries relating to all aspects mentioned in this tender document as well as seek other clarifications/details required by them from KoPT and forward the same in writing by **15th December** to the General Manager (M&S); HDC [amal.haldock@gmail.com, akdutta@kopt.in and pdasgupta@kopt.in] so that the same may be discussed / clarified in the pre-application conference.

8.3 During the pre-application conference, the queries received in advance would be clarified first, followed by those raised during the conference.

8.4 KoPT will furnish its response to all such queries including the description of the queries (without identifying the sources raising such queries) in the official website of KoPT including modifications / amendments, if any, to the terms and conditions of the original applicant, scope of the project etc. which the intending applicant tenderer are to note for submitting their tender. The amendments / modifications / clarifications shall be hosted in the form of an “Addendum” which shall become an integral part of the RFQ document for all purposes and shall be binding on the

bidders. The content of the Addendum shall be accepted and submitted by all applicants along with their bids.

8.5 Attending the pre application conference will be helpful for the intending applicant but is not mandatory.

8.6 The intending applicants are advised to inform HDC, KoPT in advance about their intention to attend the pre-application meeting in writing. A maximum of two representatives of each intending applicant will be allowed to participate on production of authorization letter from the applicant.

9.0 Submission and opening of Application:

9.1 Due Date and Time for Submission and Opening of Application

9.1.1 The application should be submitted only by hand at the office of the General Manager (M&S); HDC at Jawahar Tower; Haldia Township; Haldia; Purba Medinipur; Pin – 721 607, not later than 14:00 hours of 14/01/2016 after which time and date, no application shall be accepted.

9.1.2. KoPT may, at its sole discretion, extend the Submission / Opening due date(s) by issuing a 'Notice / Extension Notice' in KoPT's website with due notification in the press.

9. 1.3 The Application will be opened at 15:00 hrs on 14/01/2016. at the office of the General Manager (M&S); HDC at Jawahar Tower; Haldia Township; Haldia; Purba Medinipur; Pin – 721 607. The Applicant or his authorized representative may witness the opening of the techno-commercial part of the application, if they so desire.

Note: If the above mentioned due date and time for submission and opening of application becomes a holiday, then the "Applications will be opened on the next working day.

9.2. Integrity Pact

9.2.1 The Applicants shall have to submit the duly filled-in, signed and stamped (on each page) Integrity Pact in plain paper enclosed as Appendix - IV along with the techno- commercial part of their offer, failing which their offer will not be considered any further.

9.2.2 Names of the Independent External Monitors (IEM) for this permission granting process will be provided, if necessary, after the pre-application meeting.

10 FRAUD AND CORRUPT PRACTICES

- 10.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, KoPT may reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 10.2 Without prejudice to the rights of KoPT under Clause 11.1 hereinabove, if an Applicant is found by KoPT to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Applicant shall not be eligible to participate in any tender or RFQ issued by KoPT during a period of 2 (two) years from the date such Applicant is found by KoPT to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 10.3 For the purposes of this Clause 10, the following terms shall have the meaning hereinafter respectively assigned to them:
- 10.3.1 **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing or engaging in any manner whatsoever, directly or indirectly, any official of KoPT who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOA or has dealt with matters concerning the License Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of KoPT, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub clause(d) of Clause 5.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the License Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the License Agreement, who at any time has been or is a legal, financial or technical adviser of KoPT in relation to any matter concerning the Project;
- 10.3.2 **“Fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

10.3.3 **“Coercive practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;

10.3.4 **“Undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by KoPT with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

10.3.5 **Restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

11 MISCELLANEOUS

11.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Kolkata shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

11.2 KoPT, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

11.2.1 suspend and / or cancel the Bidding Process and / or amend and / or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

11.2.2 consult with any Applicant in order to receive clarification or further information;

11.2.3 pre-qualify or not to pre-qualify any Applicant and/or to consult with any Applicant in order to receive clarification or further information

11.2.4 retain any information and / or evidence submitted to KoPT by, on behalf of, and/ or in relation to any Applicant; and / or

11.2.5 independently verify, disqualify, reject and / or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Applicant.

11.3 It shall be deemed that by submitting the Application, the Applicant agrees and releases KoPT, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and / or performance of any obligations hereunder and the Bidding Documents, pursuant hereto and / or in connection with the Bidding Process to the fullest extent permitted by applicable law, and waives any and all rights and / or claims it may have in this respect, whether actual or contingent, whether present or in future.

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**MINISTRY OF SHIPPING
(PORTS WING)
NOTIFICATION**
New Delhi, the 19th June, 2001

G.S.R. 439(E) in exercise of the powers conferred by section 5 of the Indian Ports Act, 1908 (15 of 1908) and section 1(q) of the Major Port Trusts Act, 1963 (38 of 1963) and in supersession of the notification of the Government of India in the erstwhile Ministry of Shipping and Transport (Transport Wing) No. G.S.R. 89(E) dated the 26th February 1977, in Central Government hereby declares that the limits of the Port of Calcutta and the navigable river and channels leading to the Port of Calcutta shall be as follows, namely :-

Port of Calcutta

(a) On the North – A line drawn due east across the River Hooghly from a pillar at the southern boundary of Messrs. D. Waldie and Company's Chemical Works and Distillery at Konnagar in the district of Hooghly on the right bank of the river to a pillar on the left bank of the river near Panihati in the district of the 24-Parganas.

(b) On the South – A line joining Sola Column in position 21°42'36" N 87°48'17" E (Approx) to 2½ miles south of Saugar Lighthouse and then to Lone Tarl in position 21°33'30" N. and 88°15'42" E.

Excluding the following area :-

(a) On the north-east Lat 22°06'21.6" N & Long 88°13'29.7"E (Balari F.W. Column).

(b) On the south-east Lat 22°04'51.6" N & Long 88°13'56.2"E (Kulpi Pagoda).

(c) On the North-east Lat 22°06'21.6" N & Long 88°13'12." E i.e. the point of intersection of the line joining the two river side corners of the proposed jetty extended due upstream with the line due west of Balari F.W. Column.

(d) On the south-west Lat 22°04'51.6" N & Long 88°13'29.8" E i.e. the point of intersection of the line joining the two river side corners of the proposed jetty extended due downstream with the line due west of Kulpi Pagoda.

APPENDIX-I**150**

The limits of the Port include to the east and west of the River Hooghly-

- (a) That part of the River Hooghly and the shores thereof as are within 45.7 metres of high water mark at spring tides.
- (b) All lands, sheds, wharves, quays, permanent ways, railway sidings etc. comprised in the area occupied by the Calcutta Jetties, Garden Reach Jetties, Kidderpore Docks, Netaji Subhas Dock, Petroleum Depot at Budge Budge and the adjoining lands in possession of the Calcutta Port Trust and works constructed for the purpose of such jetties, docks and installations.
- (c) That part of Tolly's Nala as lies to the west of line drawn across the Nala 7.6 metres to the west of Hastings Bridge.
- (d) That part of River Haldia, from entrance to River Hooghly to the line drawn North and South through Haldia South Mark, (22°00'00" N, 88°02'49.5" E. (Approx) and the shores thereof within 45.7 metres of the High Water Mark at Spring Tides.
- (e) All lands, sheds, wharves, quays, permanent ways, railway sidings etc. comprised in the area occupied by Haldia Dock Complex and adjoining lands in possession of the Calcutta Port Trust and works constructed for the purpose of such dock complex and all installations for allied or incidental purposes.

The navigable river and channels leading to the Port of Calcutta shall be as follows :-

On the North – 400 metres down the River Bhagirathi from the centre line of the Jangipur barrage and 0.8 kilometre up the River Jalengi from its confluence with River Bhagirathi.

On the South – The parallel of latitude 20°45' N. The limits of the said river and channels include all parts of the navigable channels which lie between the longitudes of 87°40' E and 88°40' E of River Hooghly and all parts of River Bhagirathi and Hooghly between the northern and southern limits below the highest point reached by ordinary spring tides at any season of the year for tidal portion, and the bed of the river habitually covered by water at any time of the year for the non-tidal portion.

SD/-
K.V. RAO, Jt. Secy.

APPENDIX-II

Letter Comprising the Application for Pre-Qualification
(Refer Clause 5.4.4)

Dated:

To
The General Manager (M&S),
Haldia Dock Complex,
Jawahar Tower,
Haldia Township – 721 607,
West Bengal, India.

Sub: **Application for pre-qualification for “Setting up of Floating Crane Facilities to increase lightening/topping up of cargo at Sagar /other deep draft locations in the water limit of Kolkata Port Trust for a period of 15 years.”**

Dear Sir,

With reference to your RFQ document dated 28.11.2015 / we, having examined the RFQ document and understood its contents, hereby submit my / our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.

2. I / We acknowledge that KoPT will be relying on the information provided in the Application and the documents accompanying such Application for prequalification of the Applicants for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to VIII is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Bidder for the setting up, operation and maintenance of the aforesaid Project.
4. I / We shall make available to KoPT any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
5. I / We acknowledge the right of KoPT to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
- 6(a) I / We certify that in the last three years, 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 nor have had any contract terminated by any public authority for breach on our part.
- 6(b) I / We certify that, 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 application / contract / agreement of whatever kind
7. I / We declare that:
 - (a) I / We have examined and have no reservations to the RFQ document, including any Addendum issued by KoPT.
 - (b) I / We do not have any conflict of interest in accordance with Clauses 5.1.3 and 5.2 of the RFQ document; and
 - (c) I / We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in

- Clause 10.3 of the RFQ document, in respect of any tender or request for proposal issued by or any agreement entered into with KoPT or any other public sector enterprise or any government, Central or State; and
- (d) I / We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 11 of the RFQ document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
 8. I / We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with Clause 5.9.1 of the RFQ document.
 9. I / We believe that we / our Consortium / proposed Consortium satisfy(ies) the Net Worth criteria and meet(s) all the requirements as specified in the RFQ document and are / is qualified to submit a Bid.
 10. I / We declare that we / any Member of the Consortium, our / its Associates are not a Member of a / any other Consortium applying for pre-qualification.
 11. I / We certify that in regard to matters other than security and integrity of the country, we/any Member of the Consortium or any of our/their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
 12. I / We further certify that in regard to matters relating to security and integrity of the country, we/any Member of the Consortium or any of our/their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
 13. I / We further certify that no investigation by a regulatory authority is pending either against us/any Member of the Consortium or against our/their Associates or against our CEO or any of our Directors / Managers / employees.
 14. I / We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ, we shall intimate KoPT of the same immediately.
 15. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-II of the RFQ document, and duly signed, is enclosed. The power of attorney for signing of application and the power of attorney for Lead Member of consortium, as per format provided at Annexures VI and VII of Appendix II respectively of the RFQ, are also enclosed.
 16. I / We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/2013, or shall incorporate as such prior to execution of the License Agreement.
 17. I / We hereby confirm that we are in compliance of/shall comply with the O&M requirements specified in Clause 5.4.3.
 18. I/we hereby confirm that we have no objection in case two parties are granted the license for setting up of Floating Crane facilities in the manner provided in the RFQ document.
 19. I / We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by KoPT in connection with the selection of Applicants, selection of the Bidder, or in connection with the selection / Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
 20. I / We agree and undertake to abide by all the terms and conditions of the RFQ document.

21. I / We certify that in terms of the RFQ, my / our Net worth is Rs. (Rs. in words).
22. With respect to the details regarding security clearance provided in Appendix VI of my/our RFQ application, I/We accept and confirm to communicate to the Port Authority the changes in (a) Management Control of the Company/Companies and /or (b) Change of more than 10% in shareholding in the Company/Companies by any shareholder, within two weeks of change taking place.
23. We agree and undertake to be jointly and severally liable for all the obligations of the Licensee under the License Agreement till the occurrence of Financial Close in accordance with the License Agreement.)^s

In witness thereof, I / We submit this application under and in accordance with the terms of the RFQ document.

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Applicant / Lead Member

APPENDIX-III**ANNEX-I****Details of Applicant**

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Nature of the Company (whether private or State-owned entity) :
 - (d) Address of the corporate headquarters and its branch office(s), if any, in India
 - (e) Date of incorporation and / or commencement of business:
 - (f) Promoters/Board of Directors:
 - (g) Shareholding details (with particulars of entities/individuals having more than 5% stake with ownership details to the last layer indicating the promoting individual names :
 - (h) Parental Organization and sister concerns :
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
3. Brief description of the Assets (Equipment and Manpower) required by the Applicant for executing the Project:
 - (a) Machineries or Heavy/Sophisticated Equipment needed for the Project:
 - (b) Total Manpower Projection for the execution of the Project:
 - (c) Number of Foreigners likely/necessary to be involved for the project completion:
 - (d) Earmarked place for stay of foreigners with details:
4. Details of individual(s) who will serve as the point of contact/ communication for KoPT:
 - (a) Name:
 - (b) Designation
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:
5. Particulars of the Authorised Signatory of the Applicant:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number (land & mobile):
 - (e) Fax Number:
 - (f) e-mail address :
6. In case of a Consortium:
 - (a) The information above (1-5) should be provided for all the Members of the Consortium.

- (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 5.5.6(e) should be attached to the Application.
- (c) Information regarding role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role {Refer Clause 5.5.6(c)}	Percentage of equity in the Consortium {Refer Clause 5.5.6(a)}

- (d) The following information shall also be provided for each Member of the Consortium:

Name of Applicant/ member of Consortium:

No.	Criteria	Yes	No
1	Has the Applicant / constituent of the consortium been barred by the [Central / State Government, or any entity controlled by them], from participating in any project.		
2	If the answer to 1 is yes, does the bar subsist as on the date of Application?		
3	Has the Applicant / constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last three years?		

7. A statement by the Applicant and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation / arbitration in the recent past is given below (Attach extra sheets, if necessary):

APPENDIX-III**ANNEX-II****Past Experience of the Applicant**

A) In case of demonstrating technical capability and experience, over the past 5 (five) financial years preceding the Application Due Date, where the Bidder should have operated and maintained floating crane(s) / transhipper(s) in one or more marine port terminal(s) and have handled at least 2.4 million tonnes of cargo in such facilities taken together during this period;

Annual Throughput (in million tonnes)

	Details of location	April 2014- March 31, 2015	April 2013- March 31, 2014	April 2012- March, 2013	April 2011 - March, 2012	April 2010 - March, 2011
Single Entity	Location 1					
	Location 2					
	Location n					
Consortium Member 1	Location 1					
	Location 2					
	Location n					
Consortium Member 2	Location 1					
	Location 2					
	Location n					

Please add more rows depending upon Consortium Members and or Locations.

Instructions :

1. The Single Entity Applicant / each member of consortium should furnish its details in the appropriate column.
2. The description of each of the location shall have to be provided while giving the following details:-
 - (a) Description of location: -

- (b) Nature of port based project (such as berth(s) / jetty (ies) / quay crane(s)/ floating crane(s)/ transhipper(s) where the experience has been gathered:-
- (c) Contact details of the concerned Authority under whose jurisdiction each location falls
- (i) Name of the Contact Person(s)
 - (ii) Designation(s)
 - (iii) Business Title of the Authority
 - (iv) Address
 - (v) Telephone / Mobile No.
 - (vi) Fax
 - (vii) Email

Note: Please attach certificate issued by the client (i.e. the Marine Port Terminal Authority where eligible cargo has been handled or exporters/ importers whose cargo have been handled) in support of the above experience.

Or

B) In case of demonstrating technical capability and experience, over the past 5 (five) financial years preceding the Application Due Date, where the Bidder should have operated and maintained port based projects such as berth(s) / jetty (ies) / quay crane(s)/ transhipper(s) in one or more marine port terminal(s) and have handled at least 2.4 million tonnes of cargo in such facilities taken together of which 0.5 million tons shall be from floating crane operations

i) Handling of cargo by way of operation & maintenance port based project such as berth(s) / jetty (ies) / quay crane(s)/ transhipper(s) in one or more marine port terminal(s)

Annual Throughput (in million tonnes)

	Details of location	April 2014- March 31, 2015	April 2013- March 31, 2014	April 2012- March, 2013	April 2011 - March, 2012	April 2010 - March, 2011
Single Entity	Client 1 Client 2 . Client n					
Consortium Member 1	Client 1 Client 2 . Client n					
Consortium Member 2	Client 1 Client 2 . Client n					

ii) Apportionment of handling of cargo mentioned in (i) by way of Floating crane operation in one or more marine port terminal(s);

Annual Throughput (in million tonnes)

	Details of location	April 2014- March 31, 2015	April 2013- March 31, 2014	April 2012- March, 2013	April 2011 - March, 2012	April 2010 - March, 2011
Single Entity	Client 1 Client 2 . Client n					
Consortium Member 1	Client 1 Client 2 . Client n					
Consortium Member 2	Client 1 Client 2 . Client n					

Please add more rows depending upon Consortium Members and or Locations.

Instructions :

1. The Single Entity Applicant / each member of consortium should furnish its details in the appropriate column.
2. The description of each of the location shall have to be provided while giving the following details:-
 - (a) Description of location: -
 - (b) Nature of port based project (such as berth(s) / jetty (ies) / quay crane(s)/ floating crane(s)/ transhipper(s) where the experience has been gathered:-
 - (c) Contact details of the concerned Authority under whose jurisdiction each location falls
 - (viii) Name of the Contact Person(s)
 - (ix) Designation(s)
 - (x) Business Title of the Authority
 - (xi) Address
 - (xii) Telephone / Mobile No.
 - (xiii) Fax
 - (xiv) Email

Note: Please attach certificate issued by the client (i.e. the Marine Port Terminal Authority where eligible cargo has been handled or exporters/ importers whose cargo have been handled) in support of the above experience.

Or

- C) In case of demonstrating technical capability and experience, over the past 5 (five) financial years preceding the Application Due Date, where the Bidder should have operated and maintained port based projects such as berth(s) / jetty (ies) / quay crane(s)/ transhipper(s) in one or more marine port terminal(s) and have handled at least 2.4 million tonnes of cargo in such facilities taken together subject to an undertaking that in the event of their becoming successful bidder, they will enter into an agreement for entrusting operation of Floating crane facilities to an entity who have handled at least 0.5 million tons of cargo by floating crane facilities during the period of 5 (five) financial years preceding the Application Due Date

(l) Handling of cargo by way of operation & maintenance port based project such as berth(s) / jetty (ies) / quay crane(s)/ transhipper(s) in one or more marine port terminal(s);

Annual Throughput (in million tonnes)

	Details of location	April 2014- March 31, 2015	April 2013- March 31, 2014	April 2012- March, 2013	April 2011 - March, 2012	April 2010 - March, 2011
Single Entity	Client 1 Client 2 . Client n					
Consortium Member 1	Client 1 Client 2 . Client n					
Consortium Member 2	Client 1 Client 2 . Client n					

Please add more rows depending upon Consortium Members and or Locations.

Instructions :

1. The Single Entity Applicant / each member of consortium should furnish its details in the appropriate column.
2. The description of each of the location shall have to be provided while giving the following details:-
 - (a) Description of location: -
 - (b) Nature of port based project (such as berth(s) / jetty (ies) / quay crane(s)/ floating crane(s)/ transhipper(s) where the experience has been gathered:-
 - (c) Contact details of the concerned Authority under whose jurisdiction each location falls
 - (xv) Name of the Contact Person(s)
 - (xvi) Designation(s)

- (xvii) Business Title of the Authority
- (xviii) Address
- (xix) Telephone / Mobile No.
- (xx) Fax
- (xxi) Email

Note: Please attach certificate issued by the client (i.e. the Marine Port Terminal Authority where eligible cargo has been handled or exporters/ importers whose cargo have been handled) in support of the above experience.

II) UNDERTAKING TO BE GIVEN :

I/We declare that we have not handled cargo by way of Floating crane operation in any marine port terminal(s) and solemnly undertake that in the event of my/our becoming successful bidder, I/We shall enter into an agreement for entrusting operation of Floating crane facilities to an entity who have handled at least 0.5 million tons of cargo by floating crane facilities during the period of 5 (five) financial years preceding the Application Due Date.

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

Name:

Designation:

Date :

Seal

CERTIFIED BY

Name of Statutory Auditor

Registration No. & other details

Name of the Signatory

Signature

Designation

Date :

APPENDIX-III**ANNEX-III****Details Of Financial Capability Of The Applicant**

Applicant Type	Net Worth (In Rs. Crore)
	Year -1
Single entity Tenderer	
Consortium Member 1	
Consortium Member 2	
Consortium Member 3	
Consortium Member 4	

Please add more rows depending upon Consortium Members.

Instructions:

1. The Single Entity Tenderer/ each members of Consortium should submit its details in the appropriate column.
2. Net Worth = (Subscribed and Paid-up Equity + Reserve) – (revaluation reserves + Miscellaneous expenditure not written off + depreciation not provided for)
3. Year 1 will be the latest year for which audited financial statements are available.
4. Audited Annual Accounts for the last completed financial year, (for each member in case of a Consortium) supported by a Certificate from Statutory Auditor, to show the Financial Capability of the applicant to be enclosed.

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

Name:

Designation:

Date :

Seal

CERTIFIED BY

Name of Statutory Auditor.....

Registration No. & other details

Name of the Signatory

Signature

Designation

Date :

APPENDIX-III**ANNEX –IV**

The following certificate is required to be furnished in the event any applicant / consortium member takes the credit of past experience as per clause-5.5.3 of the RFQ.

Certificate from the Statutory Auditor regarding Technical & O&M Experience ^ϕ

Based on its books of accounts and other published information authenticated by it, this is to certify that (*name of the Applicant/Member/Associate*) is/ was an equity shareholder in (*title of the company owning the eligible experience as per clause-5.5.3*) and holds/ held Rs. cr. (Rupees crore) of equity (which constitutes% of the total paid up and subscribed equity capital) of the company owning eligibility from (date) to (date)[¥]

.....

Name of Statutory Auditor

Registration No. & other details

Name of the Signatory

Signature

Designation

Date :

This certificate is required for each of the case of taking credit of eligible experience as per clause no. 5.5.3

^ϕ Provide Certificate as per this format only. Attach Explanatory Notice to the Certificate. If necessary. Statutory Auditor means the entity that audits and certifies the annual accounts of the company.

[¥] In case project is owned by the Applicant company, this language may be suitably modified to read: "It is certified that (name of Applicant) constructed and / or owned the (name of Project) from (date) to (date)."

In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 5.5.9, the Applicant should also provide a certificate in the format below:

Certificate from Statutory Auditor/Company Secretary regarding Associate [§]

Based on the authenticated record of the Company, this is to certify that more than 50%(fifty per cent) of the subscribed and paid up voting equity of (*name of the Associate*) is held, directly or indirectly[£], (*name of Applicant/Consortium Member*). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 5.5.9 of the RFQ.

A brief description of the said equity held, directly or indirectly is given below:

{Describe the share-holding of the Applicant/Consortium Member in the Associate}

Name of Statutory Auditor

Registration No. & other details

Name of the Signatory

Signature

Designation

Date :

\$ In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

£ In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of "control" is not broken.

ANNEX-V

Statement of Legal Capacity

(To be forwarded on the letterhead of the Applicant/ Lead Member of Consortium)

Ref.

Date:

To
The General Manager (M&S),
Haldia Dock Complex,
Jawahar Tower,
Haldia Township – 721 607,
West Bengal, India

Dear Sir,

We hereby confirm that we / our members in the Consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFQ document.

We have agreed that (insert member's name) will act as the Lead Member of our consortium.*

We have agreed that (insert individual's name) will act as our representative / will act as the representative of the consortium on its behalf* and has been duly authorized to submit the RFQ. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the Authorised Signatory

For and on behalf of-----

**Please strike out whichever is not applicable.*

APPENDIX-III

ANNEX – VI

Power of Attorney for signing of Application

(Refer Clause 5.5.5)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (name), son / daughter / wife of and presently residing at, who is presently employed with us / the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the **"Setting up of Floating Crane Facilities to increase lightening/topping up of cargo at Sagar /other deep draft locations in the water limit of Kolkata Port Trust for a period of 15 years."** (the "Project"). Project proposed or being developed by the Haldia Dock Complex, Kolkata Port Trust ("KoPT") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre- Applications and other conferences and providing information/responses to KoPT, representing us in all matters before KoPT, signing and execution of all contracts including the License Agreement and undertakings consequent to acceptance of our bid, and generally dealing with KoPT in all matters in connection with or relating to or arising out of our bid for the said Project and / or upon award thereof to us and / or till the entering into of the License Agreement with KoPT.

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

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 2015

For

.....

(Signature, name, designation and Address)

Witnesses:

1. (Notarised)

2.

Accepted

.....
(Signature)

(Name, Title and Address of the Attorney)

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

APPENDIX-III

ANNEX - VII

Power of Attorney for Lead Member of Consortium

(Refer Clause 5.5.6(a))

Whereas the Haldia Dock Complex, Kolkata Port Trust ("KoPT") has invited applications from interested parties for the **"Setting up of Floating Crane Facilities to increase lightening/topping up of cargo at Sagar /other deep draft locations in the water limit of Kolkata Port Trust for a period of 15 years."** (the "Project").

Whereas,,, and (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Qualification document (RFQ), Request for Proposal (RFP) and other connected documents in respect of the Project, and Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s. having our registered office at, M/s. having our registered office at, and having our registered office at, (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre- qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information / documents, sign and execute contracts and undertakings consequent to acceptance of bid of the Consortium and generally to represent the Consortium in all its dealings with KoPT, and / or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and / or upon award thereof till the License Agreement is entered into with KoPT.

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

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF201

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

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

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Also, wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate

APPENDIX-III

ANNEX – VIII

Joint Bidding Agreement

(Refer Clause 5.5.6(e))

(To be executed on Stamp paper of appropriate value)

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 number of Parties will be shown here, as applicable

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) Haldia Dock Complex, Kolkata Port Trust (hereinafter referred to as **"KoPT"** which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications (the **Applications"**) by its Request for Qualification No. dated (the **"RFQ"**) for pre-qualification of bidders for setting up of Transloading Facilities for handling dry bulk cargo at Haldia Dock Complex, Kolkata Port Trust (the **"Project"**) through public private partnership.

- (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 RFQ document and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the RFQ document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Consortium

- 2.1 The Parties do hereby irrevocably constitute a consortium (the "**Consortium**") for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 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.

3. 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 for entering into a License Agreement with KoPT and for performing all its obligations as the Licensee in terms of the License 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 Bidding Process and until the Appointed Date under the License Agreement when all the obligations of the SPV shall become effective;
- (b) Party of the Second Part shall be {the Technical Member of the Consortium ;}
- (c) Party of the Third Part shall be the Financial Member of the Consortium; and
- (d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.}

5. Joint and Several Liabilities

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 RFQ, RFP and the License Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the License Agreement.

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 the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and networth have been reckoned for the purposes of qualification and short-listing of Applicants for the Project in terms of the RFQ.
- 6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- 6.4 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 until the second anniversary of the commercial operation date of the Project.
- 6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the License Agreement.
- 6.6 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 License Agreement.}

7. Representation of the Parties

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

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the 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 authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
- (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects 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 Project is achieved under and in accordance with the License Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant is not pre-qualified or upon return of the Bid Security by KoPT 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 KoPT.

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

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

SECOND PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

For and on behalf of

THIRD PART

FOURTH PART

(Signature)
(Name)
(Designation)
(Address)

(Signature)
(Name)
(Designation)
(Address)

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 executant(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 authority to execute this Agreement on behalf of the Consortium Member.

3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX-IV

INTEGRITY PACT

Integrity Pact

Between

Kolkata Port Trust (KoPT) hereinafter referred to as “The Principal”.

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 compliance 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), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal

- (1) The Principal commits itself to take all 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 IPC/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 contract, submission or non-submission of bids 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 purposes 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/representatives in India; if any. Similarly the Bidder(s)/Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principles, 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 Annex-A.
 - 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 outlines 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 per the procedure mentioned in the Guidelines on Banning of business dealings". Copy of the "Guidelines on Banning of business dealings" is annexed and marked as Annex-B.

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 and 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 with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprise in 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 per the procedure mentioned in "Guidelines on Banning of business dealings".

Section 6- Equal treatment of all Bidders/Contractors/Sub-Contractors

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

Section 7- Criminal charges against violation Bidder(s)/Contractors/Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or an employee or representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Section 8 – Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Contractors 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded.

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

Section 9 – Other provision

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal i.e. New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not be made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or 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)
(Office Seal)

(For & on behalf of Bidder/Contractor). (Office Seal)

Place : Date :

Witness 1:

(Name & Address)

.....

.....

Witness 2:

(Name & Address)

ANNEXURE - A**GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS**

- 1.1 There shall be compulsory registration of Indian agents of Foreign suppliers for all Tenders . An agent who is not registered with KoPT shall apply for registration in the prescribed Application -Form.
 - 1.2 Registered agents will file an authenticated Photostat copy(duly attested by a Notary Public)/Original certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission/remuneration/salary/ retainer ship being paid by the principal to the agent before the placement of order by KoPT.
 - 1.3 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order.
- 2.0 **DISCLOSURE OF PARTICULARS OF AGENTS/REPRESENTATIVES IN INDIA. IF ANY.**
- 2.1 **Tenderers of Foreign nationality shall furnish the following details in their offer:**
 - 2.1.1 The name and address of the agents/representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent/representative be a foreign Company, it is to be confirmed whether it is real substantial Company and details of the same shall be furnished.
 - 2.1.2 The amount of commission/remuneration included in the quoted price(s) for such agents/representatives in India.
 - 2.1.3 Confirmation of the Tenderer that the commission/ remuneration if any, payable to his agents/ representatives in India, is to be paid by KoPT in Indian Rupees only.
 - 2.2 **Tenderers of Indian Nationality shall furnish the following details in their offers:**
 - 2.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e, whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents/representatives.
 - 2.2.2 The amount of commission/remuneration included in the price (s) quoted by the Tenderer for himself.
 - 2.2.3 Confirmation of the foreign principals of the Tenderer that the commission/remuneration, if any, reserved for the Tenderer in the quoted price (s), is to be paid by KoPT in India in equivalent Indian Rupees.
 - 2.3 In either case, in the event of contract materializing, the terms of payment will provide for payment of the commission /remuneration, if any payable to the agents/representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
 - 2.4 Failure to furnish correct and detailed information as called for in paragraph- 2.0 above will render the concerned tender liable for rejection or in the event of a contract materializing, the same liable to termination by KoPT. Besides this there would be a penalty of banning business dealings with KoPT or damage or payment of a named sum.

APPENDIX-V**Details of Floating crane, self propelled Barges, Tugs and other infrastructures committed to be deployed for the project.**

Sl. No.	Type of Equipment	Manufacture's/Supplier's Name	Year of manufacture	Capacity	Other details / specifications
1.	Self propelled Berge / Pontoon fit to be operated at Sagar/ other deep drafted location with in KoPT water limit and capable of holding 35 MT SWL crane on deck.				
2.	Crane to be mounted on the self propelled Pontoon/Berge (with SWL capacity of minimum 550 MT per Hour at 36 M outreach).				
3.	Grab of 25 CBM				
4.	Steel body launch for support service.				

Note : The Bidder may indicate other equipment which he intends to additionally deploy, in the above table by inserting additional rows.

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

Name:

Designation:

Date :

Seal