



# **KOLKATA PORT TRUST**

**KOLKATA DOCK SYSTEM**  
General Administration Department(GAD)

**Tender No. Admn/T/134 dated 16.02.2015**

TENDER DOCUMENT FOR

**GRANT OF PERMISSION FOR  
OPERATING FLOATING STORAGE AND  
REGASIFICATION UNIT (FSRU)/  
FLOATING STORAGE UNIT (FSU)  
FOR RECEIVING, STORING,  
REGASIFYING (OPTIONAL) AND  
TRANSPORTING LNG FROM MOTHER  
VESSELS AT SANDHEADS TO SUITABLE  
LANDFALL POINT**

**KOLKATA PORT TRUST  
Kolkata Dock System**

**Issue Letter of Tender Document**

**Tender No. :** **Admn/T/134 dated 16.02.2015**

**Tender Subject :**

**GRANT OF PERMISSION FOR OPERATING FLOATING STORAGE AND REGASIFICATION UNIT (FSRU)/ FLOATING STORAGE UNIT (FSU) FOR RECEIVING, STORING, REGASIFYING (OPTIONAL) AND TRANSPORTING LNG FROM MOTHER VESSELS AT SANDHEADS TO SUITABLE LANDFALL POINT.**

This set of Tender Document is issued to :

Name of Tenderer :  
.....

Address of Tenderer:  
.....  
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.....

Date of Issue : .....

**Secretary I/C**

## **DISCLAIMER**

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

This document is not an agreement and is neither an offer nor invitation by the KoPT to the prospective Applicants or any other person.

Information provided in this document to the Applicant(s)/bidders 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. The KoPT accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The 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 document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the document and any assessment, assumption, statement or information contained therein or deemed to form part of this document.

The 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 document.

The 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 document.

The issue of this document does not imply that the KoPT is bound to select or to appoint the selected Bidder, as the case may be, for the Project and the 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 the 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 the 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.

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**SHORT NOTICE INVITING TENDER (NIT)  
KOLKATA PORT TRUST  
KOLKATA DOCK SYSTEM**

**TENDER FOR GRANT OF PERMISSION FOR OPERATING FLOATING STORAGE AND REGASIFICATION UNIT (FSRU)/ FLOATING STORAGE UNIT (FSU) FOR RECEIVING, STORING, REGASIFYING (OPTIONAL) AND TRANSPORTING LNG FROM MOTHER VESSELS AT SANDHEADS TO SUITABLE LANDFALL POINT.**

**Tender No. :** **Admn/T/134 dated 16.02.2015**

Sealed Offers are invited from eligible applicants for grant of permission for operating Floating Storage and Regasification Unit (FSRU)/ Floating Storage Unit (FSU) for receiving, storing, regasifying (optional) and transporting LNG from mother vessels at Sandheads to suitable landfall point on three cover basis :- **Cover I:-** Earnest Money Deposit and Cost of Tender Document; **Cover II :-** Techno-Commercial Bid ; **Cover III :-** Minimum Guaranteed Throughput (MGT) Bid.

Earnest Money	Cost of Tender Document	Last date and time of Downloading/Sale of Tender Document	Date of Pre-Bid Meeting/ Pre-Application Conference	Last date and time of Submission of Tender	Date and time of Opening of Covers I & II
Rs. 10.52 Crores	Rs. 10000/-	15.03.2015	02.03.2015; 1200 hrs	16.03.2015; 1300 hrs	16.03.2015; 1500 hrs

Details of the Tender, including eligibility conditions, method of purchase of tender document & the Tender Document is available at [www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in). Interested parties may download the tender document from the website.

**KOLKATA PORT TRUST**  
KOLKATA DOCK SYSTEM  
General Administration Department(GAD)  
**Tender No. Admn/T/134 dated 16.02.2015**

**I. General Notes :-**

- i) Tenderers shall not alter / change / delete / modify any clause of the tender document downloaded from the website. In case of downloaded tender document, if any change (in words, specification etc.) is detected in the submitted tender document, the same will be summarily rejected outright.
- ii) Tender documents will not be issued by post.
- iii) In case submission of offers is made by post, KoPT will not be responsible for postal delays and offers received after the last date and time of submission of offers will not be entertained and will be summarily rejected.
- iv) Mere issue of the tender document will not mean that the tenderer will automatically be considered qualified and their bids would be entertained. Qualification and eligibility will be examined and reviewed at the time of evaluation of bids. While evaluating bids, regard would be paid to National Defence and security considerations.
- v) Trustees reserve the right to verify the submitted copies of documents / credentials with the original documents.
- vi) Trustees reserve the right to reject or to accept the tender in whole or in part without assigning any reason whatsoever thereof.
- vii) Tenderers shall submit the Tender as per instructions contained in this tender document.
- viii) Except as specifically provided in this tender document or unless expressly and in writing asked for by KoPT no supplementary material / document submission will be entertained by KoPT after the stipulated date and time of submission of bids mentioned in this tender document, and evaluation will be carried out only on the basis of materials/ documents received within the stipulated date and time of submission. Unsolicited material, if submitted, will be summarily rejected.
- ix) Any Notice / Addendum / Corrigendum / Modification to the bid document will be notified only through KoPT website(s) and the bidders are requested to check for the same at the website(s) prior to submission of their offers.
- x) Sealed offers will be received at the office of the Secretary I/C, KoPT up to 1300 hrs. on the last date of submission as specified.

- xi) Offers sent through Telex, Fax or e-mail and late offers shall not be acceptable.
- xii) In case of unscheduled Holiday / Bandh on the date of submission of tenders, the same will be extended upto the next working day till 1300 hrs. Similarly, in case of unscheduled Holiday / Bandh on the date of opening of bids, the same will be opened on the next working day at 1500 hrs.
- xiii) KoPT reserves the right to verify all statements, information and documents submitted by the tenderer. Any such verification or lack of such verification by KoPT to undertake such verification shall not relieve the tenderer of its obligations or liabilities under this tender nor will it affect any rights of KoPT under this tender.
- xiv) In case it is found during scrutiny and/ or evaluation or at any time before signing of the Agreement or commencement of the contract, that one or more of the eligibility conditions have not been met by the tenderer or the tenderer has made material misrepresentation or has given any materially incorrect or false information, the tenderer shall be disqualified forthwith and in such event KoPT shall forfeit and appropriate the Earnest Money Deposit, without prejudice to any other right or remedy that may be available to KoPT.
- xv) In case it is found after issuance of LOA or signing of the Agreement or commencement of the contract, that one or more of the eligibility conditions have not been met by the tenderer or the tenderer has made material misrepresentation or has given any materially incorrect or false information, the order / agreement / contract, shall be forthwith terminated and in such event KoPT shall forfeit and appropriate the Security Deposit/Performance Guarantee, without prejudice to any other right or remedy that may be available to HDC, KoPT.

## II. Schedule of Bidding Process

The KoPT shall endeavour to adhere to the following schedule:

Event Description	Date
1. Last date for receiving queries	[27.02.2015]
2. Pre-Application Conference	[02.03.2015; 1200 hrs]
3. KoPT response to queries latest by	[04.03.2015]
4. Application Due Date	[16.03.2015]
5. Validity of Bids	120 days from opening of MGT Bid

KoPT would endeavor to adhere to the above schedule but reserves the right in order to afford the tenderer(s)/ Applicant(s) and itself reasonable time for providing response to queries / issuing amendments or understanding thereof by tenderers / any other reason to extend the various dates of submission / opening in its sole discretion.

### **III. Salient aspects about the Tender :**

- (i) Kolkata Port Trust (KoPT) invites applications for grant of permission for operating non-jetty based offshore disconnectable Floating Storage and Regasification Unit (FSRU) OR Floating Storage Unit (FSU) for import, storage and transfer of LNG in the open sea within KoPT limits involving the following operations :-
  - a) Import of LNG by LNG carriers
  - b) Transfer of LNG to storage tank of FSRU/FSU
  - c) Regasification of LNG on the FSRU (optional)
  - d) Transfer of Natural Gas to landfall point through sub-sea pipeline
  
- (ii) The FSRU/FSU will be anchored at the anchorage point for extended periods, i.e., on a long term basis, through suitable mooring system and there will be flexibility to detach the mooring system and sail out the FSRU/FSU.
  
- (iii) The successful operator will be inter-alia responsible for the following:-
  - a) Installation, Operation, repairs and maintenance of FSRU/FSU and subsea connecting pipelines to landfall point, at its own cost and expense.
  - b) Deployment, Operation and Maintenance of all the allied infrastructure and other required facilities for undertaking transfer of LNG to storage tank of FSRU/FSU, regasification (optional) and transfer of Natural Gas through the subsea pipeline to the On Shore Receiving Facility (ORF)
  - c) Setting up of appropriate and associated infrastructure for receiving the natural gas onshore.
  - d) Payment of charges to the authorities concerned as may be required for undertaking FSRU/FSU and allied operations within the jurisdiction of KoPT.
  - e) Would have to obtain statutory certificates / clearance from all competent and concerned authorities
  - f) Would have to comply with all applicable marine safety regimes for setting up and anchoring of the FSRU/FSU and laying of the Subsea Pipeline, including those specified by the International Maritime Organisation (IMO), and all other applicable or prescribed National



and International Rules, Laws, Regulations, Resolutions, Circulars, Certifications and Compliance requirements concerning setting up, anchoring and operations of the FSRU and laying of the Subsea Pipeline within the KoPT Port Limits.

- g) Would provide for the fire-fighting arrangements for the FSRU/FSU, Subsea Pipeline and related equipment for security, surveillance and safety of the facilities. Would also be responsible and accountable for all environmental safety measures.
  - h) Would provide access to the FSRU for inspection by Government Authorities, as and when required. Would keep a close liaison with the Customs, the shipping liners and other agencies for smooth and efficient handling of the LNG carriers. Would also observe the provision of the port safety regulations as may be applicable and regulations and other statutory laws while setting up and long term anchorage of the FSRU and the Subsea Pipeline and subsequent operations of the FSRU and related equipment, if any.
  - i) Would implement all such measures as may be required to conform to various statutory guidelines, viz. DG Shipping Order, CRZ Regulation, Explosives Act, Environment & Forest Regulation/Acts etc., as may be applicable.
  - j) Would remove all underwater structures like piles used for anchoring/mooring of the FSRU on termination/expiry of the agreement/ arrangement, in such a manner, so as not to impede safe navigation in the area, to the satisfaction of KoPT.
- (iv) KoPT has multiple areas with depth of approximately 50 mtrs or more for mooring more than one FSRU/FSU. KoPT would accord permission to multiple parties to anchor and operate FSRU/FSU at Sandheads and to lay subsea pipeline from the FSRU/FSU to the landfall point selected by the bidder on payment of charges as per its Scale of Rates/Schedule of Rent and Land Policy.
- (v) FSRUs may be installed at Sandheads anywhere within the area defined by the following geographical positions provided they are at least 3 miles apart from each other and maintain a safe distance from the pipeline corridor.

<b>A</b>	: Lat	20 <sup>0</sup> 49.5' N	Long	087 <sup>0</sup> 41.7' E
<b>B</b>	: Lat	20 <sup>0</sup> 46.5' N	Long	087 <sup>0</sup> 41.7' E
<b>C</b>	: Lat	20 <sup>0</sup> 46.5' N	Long	087 <sup>0</sup> 51.6' E
<b>D</b>	: Lat	20 <sup>0</sup> 49.5' N	Long	087 <sup>0</sup> 51.6' E

A common corridor of approx.108 km in length will be provided to all the users for laying up the pipelines from the landfall point as follows:

Alignment of the corridor for all the pipelines connecting to shore will be the line joining following points:

Lat 20° 46.5' N	Long 087° 45' E	} LEG 'A'- 47 NM (87 Km) approx. LEG 'B'- 8.8 NM (16 Km) approx. LEG 'C'- 2.8 NM (5 Km) approx.
Lat 21° 33' 48" N	Long 087° 45' E	
Lat 21° 41' 08.5 " N	Long 087° 50' E	
Lat 21° 44.2' N	Long 087° 50' E	

In addition to above, provisions have to be kept in the common corridor to accommodate at least four more users in future. Pipelines connecting the common corridor from the FSRU of any user shall not hinder laying up of the pipeline of other users. Decision of KoPT in this regard shall be final.

An indicative sketch map in the matter is given at Appendix – X.

- (vi) KoPT would not go into preparation of any DPR/studies for the project or hand over any such documents to the tenderers / bidders. Tenderers / Bidders would have to draw up their own proposals after making all necessary studies, at their own cost and expenses.
- (vii) The landfall point will be an area of choice of the tenderer/bidder. KoPT will not identify the landfall point for the bidder.

#### **IV. Port Charges and Payments to KoPT :**

- (i) All charges on cargo, FSRU and vessels shall be levied by KoPT as per the prevailing Scale of Rates, as applicable from time to time. Way Leave Charges on subsea pipeline and annual escalation thereon are leviable as per the prevailing Schedule of Rent, for the land, warehouse and buildings of KoPT at Kolkata and Haldia as applicable from time to time. For convenience of bidders such rates/charges as per the existing Scale of Rates notified vide Gazette no. 65 dated 26/02/2014 (with applicable concessions on wharfage) and Way Leave Charges as per the existing Schedule of Rent notified vide Gazette no. 47 dated 08/03/2011 are detailed below:

##### **Part I – Payments by Tenderer/Bidder/FSRU operator to KoPT**

###### **1. Port Dues on the FSRU/FSU**

The Port Dues on FSRU/FSU will be payable to KOPT before its entry in the Port Limits. Port Dues is payable at a rate equivalent to seventy

five per cent (75%) of the amount covered under Sl. No. (i) of S.25.1 of the SOR notified vide Gazette No. 65 dated 26th February 2014, (since the payment will pertain to Vessel entering in ballast and not carrying Passengers other than the crew on board under Sl. No. (iv) of S.25.1 of the SOR)

[Note: As per SOR notified vide Gazette No. 65 dated 26th February 2014, the amount payable would be at the rate of USD 0.3105 per GRT per entry, which is 75% of USD 0.414 per GRT per entry]

2. Anchorage Charges on the FSRU/FSU :

Anchorage Charges on FSRU/FSU is payable at the rate covered under Sl. No. (3) of S.22.1 of the SOR notified vide Gazette No. 65 dated 26th February 2014.

Anchorage Charges on FSRU/FSU will be payable for the entire duration during which the FSRU/FSU is anchored within the port limits or port approaches . The payment is to be made in advance every 15 days.

[ Note: As per SOR notified vide Gazette No. 65 dated 26th February 2014, the amount payable would be at the rate of INR 0.0069 per GRT per hour or part thereof, if Coastal Vessel License for FSRU is issued by the Director General of Shipping. Else, the rate will be USD 0.00048 per GRT per hour or part thereof (Sl. No. (3) of S 22.1)]

3. Way leave Charges on the Pipeline :

Way leave Charges on the Subsea Pipeline is payable at the rate prescribed in the Schedule of Rents notified under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963) by the Competent Authority.

Way leave Charges will be payable on monthly basis in advance from the date of commencement of laying the Subsea Pipeline until expiry / termination of the Agreement concerned.

Security Deposit equivalent to 12 months' Way leave Charges and taxes thereon shall be maintained by the selected tenderer/bidder with KoPT in cash at all time during the subsistence of the Way Leave arrangement. Security Deposit without interest will be refunded after expiry / termination of Agreement, only if the sub-sea pipeline is retrieved upto the satisfaction of KoPT.

[Note: As per item 68 of Part I of the Current Schedule of Rent notified vide Gazette no. 47 dated 08/03/2011, the amount payable would be at the rate of INR 195.26 per 100 sq. metre per month on the actual area covered by the Subsea Pipeline Route and the rate will

be enhanced every year by 2% on 7th April till the Schedule of Rent is revised by the Competent Authority. ]

#### 4. Levy of Wharfage on Cargo

KOPT shall levy and collect Wharfage on LNG cargo. The current rates, with concession, over the rate prescribed at Sl.no.3 (b) of S4.1 read with Clause 4.5 of the SOR notified vide Gazette No. 65 dated 26th February 2014, are as follows:

<b>Throughput</b>	<b>Wharfage (INR per MT)</b>	<b>Rate leviable as per SOR'14 (INR per MT)</b>		<b>Concession over SOR rates (in percentage)</b>
Upto 4 MMTPA	48	Upto 50000 per FY	121.50	60.49%
		Above 50000 per FY	92.34	48.02%
On incremental cargo more than 4 MMTPA and upto 6 MMTPA	36		92.34	61.01%
On incremental cargo more than 6 MMTPA	24		92.34	74.01%

{MMTPA – Millions Metric Tonne per annum; MT – Metric Tonne}

The wharfage shall be paid in advance before unloading of the cargo into the FSRU/FSU. For this purpose, as per the practice followed at KoPT, a deposit account is to be maintained to which the payment due will be debited by KoPT.

#### PART-II - Levy of Charges on LNG Carriers

KOPT shall levy and collect Port Dues and Anchorage Charges from the owners/agents of LNG Carriers as set out below:

1. Port Dues on LNG Carriers:

LNG Carrier Port Dues will be payable at the rate covered under Sr. No. (i) of S.25.1 of the SOR notified vide Gazette No65 dated 26th February 2014.

[Note: As per SOR notified vide Gazette No. 65 dated 26th February 2014, the amount payable would be at the rate of USD 0.414 per GRT per entry].

The LNG Carrier Port Dues will be payable to KOPT in advance before every entry of the LNG carriers in the Port Limits.

2. Anchorage Charges on LNG Carriers:

Anchorage Charges will be payable by the LNG Carriers at the rate covered under Sr. No. (3) of S.22.1 of the SOR notified vide Gazette No 65 dated 26th February 2014.

Anchorage Charges will be payable for the entire duration during which a LNG Carrier is anchored within the port limits or Port approaches , including alongside the FSRU. The payment is to be made in advance.

[Note: As per SOR notified vide Gazette No. 65 dated 26th February 2014, the amount payable would be at the rate of USD 0.00048 per GRT per hour.].

PART-III- GENERAL: Applicable to Part I and II.

1. Escalation or revision in port charges

- a) The charges specified above other than the Way leave Charges and Wharfage, shall be subject to revision in the SOR of KOPT from time to time.
- b) In the case of Wharfage, in the event that Sr. No. (3)(b) of S.4.1 read with S.4.5 of the SOR notified vide Gazette No. No. 65 dated 26th February 2014 is revised, Wharfage payable will be calculated by maintaining the same percentage differential between the notified rates and the above mentioned rates.
- c) Way leave Charges shall be as per the Schedule of Rent prevailing from time to time and subject to annual escalation at the rate specified in the Schedule of Rent ,which is at present two per cent (2%) from 7<sup>th</sup> April of each financial year.

## 2. Change in serial numbers of the SOR

In the event of any change in the serial numbers in the SOR in respect of any of the items referred to above, then the charges as aforesaid will be payable as per the corresponding new serial number in which the provisions of the serial numbers mentioned above are incorporated.

## 3. Special Rate and Taxes

a). In addition to the charges mentioned above, Special Rate as applicable from time to time, as per the prevailing Scale of Rates shall be levied on the charges payable to KoPT ( except Way Leave Charges). Special Rate payable as per the current SoR is 5%.(Part IX of SOR)

b). All applicable Taxes and duties are leviable extra at the rate and conditions prescribed by the Competent Authority from time to time. Presently, only Service Tax (including cess thereon) @12.36% is payable on all charges (including Way Leave Charges).

## 4. Delay in Payment

Interest shall be levied on any delayed payment as per the provisions of the Scale of Rates. Presently, clause (xiii) of S.3 of the SoR stipulates an interest rate of 16.75% on delayed payment, which will be counted only 10 days after the date of raising the bill by KoPT except in cases, where payment is to be made before availing the services /using the Trustees' properties.

## **V. Minimum Guaranteed Throughput (MGT)**

- (i) For the purposes of this tender the floor level MGT is 1 million tonnes per annum. Tenderers/ Bidders would have to offer MGT over and above this floor level MGT. All the bidders/tenderers would be required to indicate their chosen sites for FSRU/FSU installation by 02.04.2015. In the event of a tie amongst successful tenderer(s) who have been issued LoA, for a site location, or in case of any overlapping between two sites with regard to minimum distance to be kept, the bidder offering the higher MGT will be awarded the chosen site. The other bidder(s), would have to indicate alternative site within the area specified in the NIT within 15 working days from date of communication of non-acceptance of chosen site.

## Notes :

- (a) In case, after opening of the MGT Bids of the techno-commercially qualified tenderers, it is found that all the tenderers have quoted a fixed yearly MGT for 25 years, the tenderer quoting the highest MGT shall be considered as the tenderer offering the highest MGT
  - (b) In case, after opening of the MGT Bids of the techno-commercially qualified tenderers, it is found that at least a single MGT offer contains varying yearly MGT, then all the MGT offers opened shall be evaluated after determining the Net Present value (NPV) of wharfage income for the quoted MGT for each year based on the present wharfage rate indicated in Col. 2 of table in para IV(i) Part I(4).
  - (c) For calculation of NPV, discount rate shall be considered as 8%
- (ii) In case two or more Tenderers/Bidders are found to have quoted the same MGT, the Tenderers/Bidders concerned would be asked to indicate percentage increase w.r.t their original MGT offers in sealed cover, and whosoever would quote the highest percentage increase w.r.t their original MGT offers, would be considered to have quoted the highest/higher MGT amongst the Tenderers/Bidders concerned.
  - (iii) If the successful tenderer/bidder/operator fails to achieve the committed Minimum Guaranteed Throughput for 3 consecutive years anytime during the project period after commissioning of the project, permission granted would be reviewed by the Board of Trustees on due consideration and examination of the explanations received from the operator/ successful tenderer/bidder for such default, which may also lead to withdrawal of permission.
  - (iv) The start date for applicability of MGT shall be the day following the date of commissioning as indicated in this tender document. The finish date for the 1st year for the purpose of calculating MGT shall be the following 31st March, where MGT will be calculated on pro-rata basis. Thereafter, every financial year will be the year for calculation of MGT till the 24th year (from the date of commissioning). Again, the spirit of prorata MGT shall be applied for the balance period to complete 25th year.
  - (v) If the actual LNG traffic handled in a year falls below the committed Minimum Guaranteed Throughput, the FSRU/FSU operator shall pay the amount equivalent to the wharfage, as applicable, plus all taxes and duties, for the shortfall-quantity.
  - (vi) The FSRU/FSU operator shall execute an irrevocable-encashable at call Bank Guarantee every year from the date of commissioning for the entire period of agreement/arrangement, in favour of Kolkata Port Trust, covering

the value of applicable charges to the extent of the MGT. In case the FSRU/FSU operator fails to pay the applicable charges for the shortfall in quantity, if any, within 15 days from the date of the communication, the Bank Guarantee shall be encashed to that extent. The FSRU/FSU operator shall be liable to restore the Bank Guarantee to the full amount in case of part encashment of the same by the KoPT. This shall be done within 30 (thirty) Days of any such part encashment.

- (vii) In case, the entire BG is encashed, it shall be the duty of the FSRU/FSU operator to submit another Bank Guarantee of the required amount immediately and not later than 15 days from the date of communication of KoPT in this regard.
- (viii) The Bank Guarantee is to be executed by the FSRU/FSU operator from the Kolkata Branch of any Scheduled Indian Bank. The Bank Guarantee shall remain valid for a period of at least one year (with a further claim period of 3 months thereafter), to be renewed every year at least one month before expiry of validity period, till completion of the period of agreement/arrangement.  
Also, in the event of revision of Scale of Rates within the validity period of the Bank Guarantee (BG) in any year, requiring revision of the BG amount, the FSRU/FSU operator shall have to furnish a supplementary BG for the additional amount for the balance period. In case the amount becomes less by any chance, the FSRU/FSU operator shall likewise be at liberty to submit fresh BG of requisite amount and get back the former BG.  
Format of the BG shall be provided by KoPT to the successful tenderer at the material point of time, on application from the successful tenderer.
- (ix) In the event of issuing Bank Guarantee by any branch outside Kolkata, any Kolkata Branch of such Bank shall confirm the same and stand by for all the commitments under the Bank Guarantee. In all cases, any dispute regarding such Bank Guarantee will be adjudicated under the jurisdiction of The Calcutta High Court.

## **VI. Earnest Money**

- (i) Earnest Money of Rs. 10.52 Crores shall have to be submitted. Of this an amount of Rs. 10 lakhs shall be in Banker's Cheque or by Demand Draft on any Nationalised Bank of India or Scheduled Bank as approved by Government of India, drawn in favour of "Kolkata Port Trust" and payable at Kolkata. The rest amount will be in the form of Bank Guarantee as per format Appendix -IX.



- (ii) Earnest Money as per (i) above shall be submitted in a separate sealed envelope (Cover-I envelope) as per instructions given in this tender document. No Cheque or cash or postal order will be accepted, as Earnest Money Deposit. Bid submitted without requisite Earnest Money will be liable for rejection.
  
- (iii) Earnest Money is liable to forfeiture if
  - a) a non-responsive Bid has been submitted
  - b) it is found during scrutiny and/ or evaluation or at any time before signing of the Agreement or commencement of the work, that one or more of the eligibility conditions have not been met by the tenderer or the tenderer has made material misrepresentation or has given any materially incorrect or false information or has submitted forged documents
  - c) if the tenderer withdraws its Bid during the interval between the specified date and time of submission of the tender or any extension thereof and expiration of the validity period of the tender including extension thereof.
  - d) if the tenderer unilaterally modifies its Bid during the interval between the specified date and time of submission of the tender or any extension thereof and expiration of the validity period of the tender including extension thereof.
  - e) if the selected tenderer fails to communicate to KoPT its letter of acceptance of the award or fails to sign the agreement within such timeframes as specified in this tender document (in case of the latter, if the Security Deposit/Performance Guarantee is not submitted, EMD will be forfeited. If Security Deposit/ Performance Guarantee has been submitted, the same will be forfeited).
  - f) if the tenderer indulges in fraud and corrupt practices as defined in this tender document.
  
- (iv) Unsuccessful tenderers who have submitted bonafide bids will be refunded the amount of Earnest Money (but without any interest thereon) after the award of the contract to the successful tenderer.
  
- (v) The Earnest Money of the successful tenderer shall be refunded (but without any interest thereon) only after submission of Security Deposit / Performance Guarantee.

**VII. Performance Guarantee**

- (i) The selected Tenderer/Bidder (the JVC / SPV in case of a consortium) shall for due performance of its obligations during the Construction Phase (i.e upto commissioning in all respects) provide to the KoPT an 'irrevocable – encashable at call' Bank Guarantee on a Non-judicial Stamp paper of at least Rs. 100 issued by any Scheduled Bank in India within 60 days from the date of issuance of LoA as per format to be provided by KoPT at the material point of time on application from the selected tenderer/bidder. The above Performance Guarantee may also be deposited in Demand Draft / Banker's Cheque only drawn in favour of Kolkata Port Trust payable at Kolkata.
- (ii) The Performance Guarantee shall be for a sum of Rs. 26.30 Crores.
- (iii) Till such time the selected Tenderer/Bidder provides to the KoPT the Performance Guarantee pursuant hereto, the Earnest Money Deposit shall remain in full force and effect.
- (iv) The Performance Guarantee, if in the form of a bank guarantee shall be valid for an initial period of 1 (one) year with an additional claim period of 6 months thereafter and shall be renewed/revalidated 30 (thirty) Days prior to expiry of each year, for an additional/further term of 1 (one) year with same claim period of 6 months. This shall be continued with for the entire Construction Phase (i.e upto commissioning in all respects) concerned to this tender.
- (v) In the event of issuing Bank Guarantee by any branch outside Kolkata, any Kolkata Branch of such Bank shall confirm the same and stand by for all the commitments under the Bank Guarantee. In all cases, any dispute regarding such Bank Guarantee will be adjudicated under the jurisdiction of The Calcutta High Court.
- (vi) Failure of selected Tenderer/Bidder to provide a valid Performance Guarantee shall entitle the KoPT to forthwith cancel the LoA/terminate this Agreement and also if relevant, to forfeit the Earnest Money Deposit.
- (vii) If the selected Tenderer/Bidder fails to commission the Project within 48 months from LoA, the Performance Guarantee would be forfeited in full. However, in case there are genuine and cogent reasons for not commissioning the project within the stipulated period, KoPT may grant extension of time upto maximum 12 months during which period 2% of the Performance Guarantee amount would be forfeited for each month's delay

or part thereof. However, MGT would be payable to KoPT after 48 months from LoA onward in such a case. It is further clarified that if the project could not be commissioned even within 12 months of extended period, without genuine and cogent reasons, the performance guarantee would be forfeited without any reference and the permission for the project might stand cancelled and withdrawn.

- (viii) The cost of executing the Performance Guarantee and extension / revalidation of the same, if any, shall have to be borne by the selected Tenderer/Bidder.

### **VIII. Commissioning Period**

- (i) The selected Tenderer/Bidder would have to commission the project within 48 months from the date of issuance of Letter of Award (LoA)
- (ii) Commissioning would imply operationalising all aspects under the Project including trial period and involve
- a. Import of LNG by LNG carriers
  - b. Transfer of LNG to storage tank of FSRU/FSU
  - c. Regasification of LNG on the FSRU (optional)
  - d. Transfer of Natural Gas to landfall point through sub-sea pipeline and all other related activities.

### **IX. About Applicants (Tenderers/Bidders) and their eligibility**

- (1) The Applicant may be a single entity or a group of entities (the "**Consortium**"), coming together to implement the Project. However, no applicant applying individually or as a member of a Consortium, as the case may be, can be member of another Applicant. The term Applicant used herein would apply to both a single entity and a Consortium.
- (2) An 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.
- (3) An Applicant shall not have a conflict of interest (the "**Conflict of Interest**") that affects the Bidding 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 Bidding Process, if:
- (i) 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, 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. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:

- (aa) 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
- (bb) subject always to sub-clause (aa) 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 (bb) 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
- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) 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
- (iv) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (v) 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 Application of either or each other; or

- (vi) such Applicant, or any Associate thereof has participated as a consultant to the KoPT in the preparation of any documents, design or technical specifications of the Project.
- (4) An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the KoPT in relation to the Project 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 Project. 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 Project.
- Explanation:* In case an Applicant is a Consortium, then the term Applicant as used here, shall include each Member of such Consortium.
- (5) Applicant / tenderer / bidder should have experience in handling an average quantity of 1 MTPA of oil and gas during the last 3 financial years (Technical Capacity) and a minimum Net Worth of Rs. 131.50 Crores at the close of the preceding financial year (Financial Capacity)
- (6) In case of a Consortium, the combined cargo handling and net worth of those Members, who have and shall continue to have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above condition of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Agreement
- (7) The Applicants shall enclose with its application/tender certificate(s) from its statutory auditors specifying the net worth of the Applicant, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this document. For the purposes of this document, net worth (the "**Net Worth**") shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.
- (8) The Applicant should submit a Power of Attorney as per the format at Appendix-II, authorising the signatory of the Application to commit the Applicant. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix-III.
- (9) Where the Applicant is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian

Companies Act 1956 (the "**SPV**"), to execute the Agreement and implement the Project. In case the Applicant is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) Number of members in a consortium shall not exceed 6 (six), but information sought in the Application may be restricted to 4 (four) members in the order of their equity contribution;
- (b) subject to the provisions of clause (a) above, the Application should contain the information required for each member of the Consortium;
- (c) Members of the Consortium shall nominate one member as the lead member (the "**Lead Member**"), who shall have an equity share holding of at least 26% (twenty six per cent) 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 Appendix-III, signed by all the other members of the Consortium;
- (d) The Application should include a brief description of the roles and responsibilities of individual members.
- (e) An individual applicant cannot at the same time be member of a Consortium. Further, a member of a particular Applicant Consortium cannot be member of any other Applicant Consortium .
- (f) The members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
- (g) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-IV (the "**Jt. Bidding Agreement**"), for the purpose of making the Application /submitting a Bid. The Jt. Bidding Agreement, to be submitted along with the Application, shall, *inter alia*:
  - (i) Convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this document, which would enter into the Agreement and subsequently perform all the obligations in terms of the Agreement, in case the Project is awarded to the Consortium;
  - (ii) Clearly outline the proposed roles and responsibilities, if any, of each member;
  - (iii) Commit the minimum equity stake to be held by each member;
  - (iv) Commit that each of the members, whose experience will be evaluated for the purposes of this document, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost;

- (v) Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project; and
  - (vi) Include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations in relation to the Project until the Financial Close of the Project is achieved; and
  - (h) Except as provided under this document, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the KoPT.
- (10) Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of application, would not be eligible to submit an Application, either individually or as member of a Consortium.
- (11) An applicant including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial KoPT or a judicial pronouncement or arbitration award against the Applicant, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Applicant, Consortium Member or Associate
- (12) In computing the Net Worth of the Applicant/ Consortium Members the Net Worth of their respective Associates would also be eligible hereunder.

For purposes of this document, 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 (the "**Associate**"). 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.

- (13) Notwithstanding anything to the contrary contained herein, in the event that the Application Due Date falls within three months of the closing of the latest financial year of an Applicant, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the 3 (three) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of

doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Applicant in the course of its normal business.

- (14) Change in the composition of a Consortium after issue of LoA, if required in exigencies, will be allowed only on one occasion, with prior permission of KoPT, subject to the following conditions :-
- a) The application for such change is received not later than 15 (fifteen) days prior to the stipulated date of signing of the Agreement to allow sufficient time to KoPT to scrutinize the application for change;
  - b) The Lead Member continues to be the Lead Member of the Consortium;
  - c) The substitute is equal or more in terms of Technical and Financial Capacity, to the outgoing Consortium Member and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants/ Consortium;
  - d) The incoming Member 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 which has bid for this Project or Member/ Associate of any other Consortium which has bid for this Project;
  - e) 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;
  - f) The reconstituted / modified Consortium shall submit a revised Agreement of forming the Consortium signed by all the members.
- (15) 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.
- (16) The Applicants shall be responsible for all of the costs associated with the preparation of their Applications and their participation in the Bid Process. The KoPT will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.
- (17) It shall be deemed that by submitting the Application, the Applicant has:
- (a) Made a complete and careful examination of this document;
  - (b) Received all relevant information requested from the KoPT;
  - (c) Accepted the risk of inadequacy, error or mistake in the information provided in this document or furnished by or on behalf of the KoPT; and
  - (d) Agreed to be bound by the undertakings provided by it under and in terms hereof.
- (18) The 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 this document or the bidding process, including any error or mistake therein or in any information or data given by the KoPT.

- (19) Notwithstanding anything contained in this document, the 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 the KoPT rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- (20) The 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 the KoPT, the supplemental information sought by the 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 Highest Bidder gets disqualified/ rejected, then the KoPT reserves the right to:

- (i) Invite the remaining Bidders to match the Highest Bidder; or
  - (ii) Take any such measure as may be deemed fit in the sole discretion of the KoPT, including annulment of the Bidding Process.
- (21) In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, 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 by issue of the LOA or entering into of the Agreement, and if the Applicant/SPV has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this document, be liable to be terminated, by a communication in writing by the KoPT to the Applicant, without the KoPT being liable in any manner whatsoever to the Applicant and without prejudice to any other right or remedy which the KoPT may have under this document, the Agreement or under applicable law.
- (22) The KoPT reserves the right to verify all statements, information and documents submitted by the Applicant in response to this document. Any such verification or lack of such verification by the KoPT shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the KoPT thereunder.

(23) Clarifications

- (a) Applicants requiring any clarification on this document may notify the KoPT in writing or by fax or e-mail. They should send in their queries before the date specified in the schedule of Bidding Process. The KoPT shall endeavour to respond to the queries within the period specified.
- (b) The KoPT shall endeavour to respond to the questions raised or clarifications sought by the Applicants. However, the 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 the KoPT to respond to any question or to provide any clarification.
- (c) The KoPT may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by the KoPT shall be deemed to be part of this document. Verbal clarifications and information given by KoPT or its employees or representatives shall not in any way or manner be binding on the KoPT.

(24) Amendment of tender document

- (a) At any time prior to the deadline for submission of Application, the KoPT may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify this document by the issuance of Addenda.
- (b) Any Addendum thus issued will be notified only through KoPT website and the intending bidders are requested to check for the same at the website(s) prior to submission of their offers.
- (c) In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the KoPT may, in its sole discretion, extend the Application Due Date.

**X. Preparation and Submission of Application / Tender/Bid**

(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

translations of all 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.

(2) Format and signing of Application

- (a) The Applicant shall provide all the information sought under this document. The 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.
- (b) The Application 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 case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Application shall be initialled by the person(s) signing the Application. The Application shall contain page numbers and shall be bound together in hard cover.

(3) Submission, Sealing and Marking of Applications

3.1 Each Tender should be submitted in one envelope containing Three (3) separate sealed covers as explained below:

- (a) Cover I: (Earnest Money Deposit & Cost of Tender Document) should contain the following:-
  - i) Earnest Money Deposit as per instructions given in this tender document
  - ii) Cost of tender document : Rs. 10,000/- [non-refundable] in Demand Draft/ Bankers' Cheque on any nationalized or scheduled bank approved by Govt. of India; favouring Kolkata Port Trust payable at Kolkata
- (b) Cover II: (Techno-Commercial Bid) should contain the following:-
  - (i) Covering letter to Techno-Commercial Bid (Appendix-I)
  - (ii) Power of Attorney for signing of Application (Appendix-II)
  - (iii) Statement of Legal Capacity (Appendix-II-A)
  - (iv) Power of Attorney for Lead Member of Consortium (Appendix-III)
  - (v) Jt. Bidding Agreement, in case of a Consortium (Appendix-IV)
  - (vi) Corporate Information (Appendix-V)
  - (vii) Net Worth Information (Appendix – VI)

- (viii) Copies of Applicant's duly audited balance sheet and profit and loss account , financial statements and Annual Reports for 3 (three) years preceding the Application Due Date
  - (ix) Copy of Memorandum and Articles of Association, if the Applicant is a body corporate, and if a partnership then a copy of its partnership deed
  - (x) Entire tender document (including pages related to the MGT Bid in blank condition) of KoPT signed in blue ink by authorized signatory and bearing seal of the tenderer is to be submitted in token of the same having been read, understood and accepted by the tenderer.
  - (xi) A write-up on experience in handling oil and gas by the Single entity/Consortium members with supporting / corroborative documents to establish eligibility of technical capacity.
  - (xii) A write up on Brief outline of the intended project and workplan for the instant project
- (c) Cover III: (MGT Bid) should contain the MGT Bid strictly as per the format given at Appendix - VII of this tender document

- 3.2 The documents submitted in each of the three separate covers should be serially numbered and the tenderer will provide an index of submitted documents (table of contents) vis-à-vis their page numbers for each cover.
- 3.3 The tenderer shall seal and sign all the documents, as applicable, mentioned at X(3.1)(a) inside Cover-I along with the concerned index of submission as explained at X(3.2) above and superscribe it as "Cover I:- Earnest Money Deposit"
- 3.4 The tenderer shall seal and sign all the documents, as applicable, mentioned at X(3.1)(b) inside Cover-II along with the concerned index of submission as explained at X(3.2) above and superscribe it as "Cover II :- Techno-Commercial Bid"
- 3.5 The tenderer shall seal and sign all the documents, as applicable, mentioned at X(3.1)(c) inside Cover-III along with the concerned index of submission as explained at X(3.2) above and superscribe it as "Cover III :- MGT Bid"
- 3.6 Bidders must not indicate directly or indirectly the contents of their MGT Bid (Cover III) anywhere in the other documents viz, those furnished within Cover I & II. In that case the bid will be liable to be rejected.

3.7 Each of the three covers mentioned above containing the respective bids shall also indicate the name and address of the Tenderer and shall be superscribed with the Tender Name and Tender No.

3.8 All the three Covers should be contained in a sealed outer envelope which shall clearly indicate the name and address of the Tenderer and shall be superscribed with the Tender Name and Tender No. The Application Due Date should be indicated on the right hand corner of the outer envelope.

Additionally this outer envelope shall be superscribed with "Do not open, except in presence of authorised person of KoPT. "

3.9 The outer envelope as at 3.8 above, containing the three Covers (Covers I, II & III) thus marked and sealed shall be addressed to  
Secretary I/C, Kolkata Port Trust,  
15, Strand Road; Kolkata – 700 001

3.10 If any of the envelopes/covers are not sealed and marked as instructed above, KoPT assumes no responsibility for the misplacement or premature opening of the contents of the tender submitted and consequent losses if any suffered by the tenderer.

3.11 If any of the envelopes/covers are not sealed and marked as instructed above, the Bid may be deemed to be non-responsive and liable to be rejected.

3.12 The Bid shall be signed in blue ink only and sealed on each page. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person signing the Bid.

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

#### 4. Application Due Date

4.1 Applications should be submitted before 1300 hours IST on the Application Due Date, at the address provided in Clause 3.9 hereinabove in the manner and form as detailed in this document.

4.2 The KoPT may, in its sole discretion, extend the Application Due Date by issuing an Addendum uniformly for all Applicants.

#### 5. Late Applications / Unsolicited Supplementary materials

5.1 Applications received by the KoPT after the specified date and time as stipulated in the Notice Inviting Tender or in any Addendum / Extension Notice, if any, shall not be eligible for consideration and shall be summarily rejected.

5.2 Except as specifically provided in this tender document or unless expressly and in writing asked for by KoPT no supplementary material / document submission will be entertained by KoPT after the stipulated date and time of submission of bids mentioned in this tender document, or in any Addendum / Extension Notice, if any, and evaluation will be carried out only on the basis of materials/ documents received within the stipulated date and time of submission. Unsolicited material, if submitted, will be summarily rejected.

## 6. Modifications/ substitution/ withdrawal of Applications

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 the KoPT prior to the Application Due Date. No Application shall be modified, substituted or withdrawn by the Applicant on or after the Application Due Date.

6.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 3 hereinabove, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

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 the KoPT, shall be disregarded.

6.4 The Earnest Money shall be forfeited if the tenderer withdraws its Bid during the interval between the specified date and time of submission of the tender or any extension thereof and expiration of the validity period of the tender including extension thereof.

## **XI Opening and Evaluation of Applications**

1. Cover-I of the Bid (Earnest Money Deposit & Cost of Tender Document) will be opened shortly after 1500 Hrs on the date specified in the Notice Inviting Tender or in any Addendum / Extension Notice, if any, in the presence of Bidders or their authorised representatives who may wish to be present, at the office of Secretary I/C; KoPT. Tenders submitted without stipulated Earnest Money Deposit will be summarily rejected.
2. Cover-II of the Bid (Techno-Commercial Bid) of those bidders who have submitted stipulated Earnest Money Deposit & Cost of Tender Document will be opened shortly after opening of Cover I on the date specified in the

Notice Inviting Tender or in any Addendum / Extension Notice, if any, in the presence of Bidders or their authorised representatives who may wish to be present, at the office of Secretary I/C; KoPT.

3. Cover-III of the bid (MGT Bid) of only techno-commercially qualified tenderers will be opened at a later date with due intimation to such tenderers in the presence of tenderers concerned or their authorised representatives who may wish to be present, at the office of Secretary I/C; KoPT.
4. Applications for which a notice of withdrawal has been submitted shall not be opened.
5. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
6. Any information contained in the Application shall not in any way be construed as binding on the KoPT, its agents, successors or assigns, but shall be binding against the Applicant if the Project is subsequently awarded to it on the basis of such information.
7. The KoPT reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Application(s) without assigning any reasons.
8. If any information furnished by the Applicant is found to be incomplete, or contained in formats other than those specified herein, the KoPT may, in its sole discretion, exclude such information from the purposes of evaluation.
9. Where any information is found to be patently false or amounting to a material representation, the KoPT reserves the right to reject the Application and/ or Bid.
10. Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the KoPT in relation to, or matters arising out of, or concerning the Bidding Process. The 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 as confidential. The 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 the KoPT or as may be required by law or in connection with any legal process.

## 11. Tests of responsiveness

11.1 Prior to evaluation of Applications, the KoPT shall determine whether each Application is responsive to the requirements of this document. An Application shall be considered responsive only if:

- (a) It is received as per/undercover format at Appendix-I.
- (b) It is received by the Application Due Date including any extension thereof;
- (c) It is signed, sealed, bound together in hard cover, and marked as stipulated in this tender document;
- (d) It is accompanied by the sought for Power of Attorneys;
- (e) It contains all the information and documents (complete in all respects) as requested in this document;
- (f) It contains information in formats same as those specified in this document;
- (g) It contains certificates from its statutory auditors in the formats specified;
- (i) It is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project;
- (j) It does not contain any condition or qualification; and
- (k) It is not non-responsive in terms hereof.

11.2 The KoPT reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the KoPT in respect of such Application.

## 12. Clarifications

12.1 To facilitate evaluation of Applications, the KoPT may, at its sole discretion, seek clarifications from any Applicant regarding its Application. Such clarification(s) shall be provided within the time specified by the KoPT for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

12.2 If an Applicant does not provide clarifications sought as at above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the KoPT may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the KoPT.



## 13. Notification for opening of MGT bid

After the evaluation of the techno-commercial part of the Application, the KoPT would announce/notify the date of opening of the MGT bids to the techno-commercially qualified Applicants/ Bidders. Applications of firms/ consortia who do not have experience in handling oil and gas or who do not meet the Net worth criterion mentioned hereinabove in this tender document shall be rejected. The KoPT will not entertain any query or clarification from Applicants who fail to qualify.

## 14. Validity of the Tender

14.1 The tender shall remain valid for acceptance for a period of 120 days from the date of opening of Cover III (MGT Bid).

14.2 Prior to expiry of the original tender validity period as stated above, on request from KoPT, tenderers may be required to extend the validity period for a specified additional period.

## 15. Proprietary data

All documents and other information supplied by the KoPT or submitted by an Applicant to the KoPT shall remain or become the property of the KoPT. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The KoPT will not return any Application or any information provided along therewith.

16 Save and except as provided in this document, the KoPT shall not entertain any correspondence with any Applicant in relation to the acceptance or rejection of any Application.

**XII Fraud and corrupt practices**

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, the 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.

2 Without prejudice to the rights of the KoPT under Clause 1 hereinabove, if an Applicant is found by the 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 issued by the KoPT during a period of 2 (two) years from the date such Applicant is found by the 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.

3 For the purposes of this Clause XII, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **"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 the 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 Agreement or arising there from, 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 the KoPT, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted in this tender document, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser of the KoPT in relation to any matter concerning the Project;
- (b) **"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 ;
- (c) **"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;
- (d) **"Undesirable Practice"** means (i) establishing contact with any person connected with or employed or engaged by the 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
- (e) **"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.

### **XIII Pre-Application Conference/Pre-Bid Meeting**

1. A Pre-Application conference of the interested parties shall be convened at the designated date, time and place (Conference Room; Head Office at 15, Strand Road; Kolkata -700 001). A maximum of two/three representatives of each Applicant shall be allowed to participate on production of Authority letter from the Applicant.
2. During the course of Pre-Application conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the KoPT. The KoPT shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

### **XIV Miscellaneous**

- 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.
- 2 The KoPT, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
  - (a) 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;
  - (b) Consult with any Applicant in order to receive clarification or further information;
  - (c) Retain any information and/ or evidence submitted to the KoPT by, on behalf of, and/ or in relation to any Applicant; and/ or
  - (d) 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.
- 3 It shall be deemed that by submitting the Application, the Applicant agrees and releases the 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 and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

## **XV Special Conditions**

1. Acceptance of Letter of Award (LoA)
  - (a) After finalization of the tender, KoPT shall place LoA (Letter of Award) to the Successful Tenderer. The Successful Tenderer, on receipt of the same, shall communicate acceptance to the same within a period of 7 days from the date of issuance of LoA, failing which the LoA may become liable for cancellation with forfeiture of Earnest Money, at the discretion of KoPT.
  - (b) The LoA and its acceptance by the Successful Tenderer will be construed as an Agreement between KoPT and the Successful Tenderer for fulfilling the scope of work and obligation of the contract by the Successful Tenderer till such time agreement is signed.
  - (c) Along with the acceptance of LoA, the successful tenderer(s) shall also provide a Bar Chart, broad timelines/milestones in respect of studies, order placements, financial closure, statutory clearances, etc for monitoring progress of the project by KoPT. In the event of major deviation from the above without genuine and cogent reasons, impairing the scheduled commissioning of the project, KoPT reserves the right to terminate the agreement /withdraw the permission.
2. Formation of a Joint Venture Company (a Special Purpose Vehicle)
  - (a) In case the successful tenderer is a consortium, then upon receipt of Letter of Intent (LoA), it shall promptly form the Joint Venture Company to comply with the scope of work and other obligations detailed in the tender document, Addendum and all other associated documents exchanged and submit the copies of Certificate of Incorporation, Memorandum & Article of Association etc. to KoPT within a period of 90 days from the date of issuance of LoA.
  - (b) Failure to constitute the Joint Venture Company (as SPV) within the time stipulated in the tender document shall also be considered as one of the grounds for forfeiture of the Earnest Money Deposit.
3. Agreement

An agreement shall have to be executed on a Non-judicial Stamp paper of at least INR 100/- as per format enclosed as Appendix VIII by the successful tenderer / Joint Venture Company (so formed by the successful

tenderer as an SPV) at his / their expense within 135 days from the date of issuance of LoA. All correspondence between the Successful Tenderer (who finally formed the Joint Venture Company as an SPV) and KoPT and all documents submitted by both the parties from the date of opening of the tender till the submission of the Performance Guarantee as well as the Memorandum and Articles of Association of the SPV accepted by KoPT, Certificate of Incorporation of the SPV etc. shall form part of the agreement.

4. Period of Agreement / Arrangement

The Agreement / Arrangement shall be for a period of 25 years to begin with to be reckoned from the date of commissioning of the project as defined in this tender document. This may be further extended with mutual consent of both the parties.

5. Governing Laws

This contract shall be governed by and construed in accordance with the prevailing laws of the Republic of India.

6. Amendment

In case of exigency or for operational requirements, the conditions of the agreement/arrangement may be amended with mutual consent of both the parties, subject to the condition that such amendments are in conformity with the prevailing policy of Govt. of India and law of the land on the subject.

7. Illegality

If for any reason whatsoever any provision and condition of the agreement/ arrangements is held to be void, illegal or invalid under present or future laws or regulations effective and applicable during the period/pendency of the agreement/ arrangements, such provision shall be treated as fully separable and the remaining provisions of the agreement/ arrangements shall remain in full force. The other provisions of agreement/ arrangements shall not be affected by such illegal or invalid provisions or by its severance from this agreement/ arrangements. For the sake of smooth execution of the agreement/ arrangements, any new condition(s) as may be mutually acceptable in supersession of the affected provision and condition of the agreement/ arrangements shall be deemed to be a part of the agreement/ arrangements from such point of time.

8. Amicable Settlement

If any dispute or difference or claims of any kind arises between the FSRU/FSU operator and KoPT in connection with interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of the contract, or the

rights, duties or liabilities of the parties under the contract, then the parties shall meet together promptly at the requests of any party in an effort to resolve such dispute, difference or claim by discussions between them.

9. Arbitration

(a) Arbitrators

Failing amicable settlement, the dispute or differences or claims as the case may be, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996 including all amendments thereof. The arbitration shall be by a panel of three Arbitrators, one to be appointed by each party and the third to be appointed by the two arbitrators appointed by the parties. A party requiring arbitration shall appoint an Arbitrator in writing, inform the other party about such appointment and call upon the other party to appoint its Arbitrator and inform the other party within 60 days. If the other party fails to appoint its Arbitrator, the party appointing Arbitrator shall take steps in accordance with Arbitration and Conciliation Act, 1996, including any amendment thereof.

(b) Place of Arbitration

The place / jurisdiction of arbitration shall be in Kolkata, West Bengal, India.

10. Force Majeure:

10.1 Force Majeure Event shall mean any event or circumstances or a combination of events and circumstances not attributable to the FSRU/FSU Operator like those as set out hereunder or the consequences thereof which may materially and adversely affect the FSRU/FSU Operator in due performance of its various obligations under the agreement/arrangement.

- a) Acts of God, heavy and incessant rain, dense fog severely affecting visibility, storm, cyclone, hurricane, flood, tsunami, earth quake, fire / smoke etc (to the extent originating from a source other than the equipment to be supplied, installed, operated and maintained by the FSRU/FSU Operator).
- (b) Strike, boycotts or other forms of labour unrest (excluding strike or boycotts by the employees of the FSRU/FSU Operator or by the employees of the agents / representatives / subcontractors engaged by the FSRU/FSU Operator) and labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the FSRU/FSU Operator.
- (c) An act of war, riot etc.
- (d) Industry wide or State wide strikes or industrial actions.

- (e) Any civil commotion, boycott or mass agitation which prevents the FSRU/FSU Operator in fulfilling his obligations under the provisions of the agreement/arrangement.

#### 10.2 Notice of Force Majeure Event

- a) The FSRU/FSU Operator shall give notice to KoPT in writing of the occurrence of the Force Majeure Event as soon as the same arises which in any event shall be within 24 hours from the time of occurrence.
- b) The notice shall inter-alia include full particulars of:
  - (i) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof,
  - (ii) the duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the FSRU/FSU Operator to perform its obligations under the agreement/arrangement,
  - (iii) the measures which the FSRU/FSU Operator has taken or proposes to take, to alleviate the impact of the Force Majeure Event, and
  - (iv) any other relevant information.

#### 10.3 Period of Force Majeure

Period of Force Majeure shall mean the period from the time of occurrence specified in the notice given by the FSRU/FSU Operator in respect of Force Majeure Event until the earlier of:

- (a) expiry of the period during which the FSRU/FSU Operator is excused from performance of its obligations OR
- (b) termination of the contract,

#### 10.4 Performance Excused

The FSRU/FSU Operator to the extent rendered unable to perform its obligations or part thereof under the agreement/arrangement as a consequence of the Force Majeure Event shall be excused from performance of the obligations provided that the excuse from performance shall be of no greater scope and of no longer duration than considered reasonable by KoPT consequent to the Force Majeure Event.

#### 10.5 Resumption of Performance

During the period of Force Majeure, the FSRU/FSU Operator shall make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under the agreement/arrangement. The FSRU/FSU Operator shall also make efforts to resume performance of its obligations under the

agreement/arrangement as soon as possible and upon resumption shall notify KoPT of the same in writing.

#### 10.6 Extension of time for performance of obligations

KoPT may grant extension of time to the FSRU/FSU Operator for the performance of any obligation by such period not exceeding the period during which the relevant performance was affected by the Force Majeure Event. Such extension may include extension of the agreement/arrangement by KoPT at its sole discretion without any change in the terms, conditions, etc of the ongoing agreement/arrangement.

#### 10.7 Effect of Force Majeure Event

If the period of Force Majeure continues or is in the reasonable judgement of the parties is likely to continue beyond a period of 90 days, the parties may mutually decide to terminate the contract or continue the contract on mutually agreed terms.

#### 11. Removal of FSRU/FSU after Expiry of period

- (a) The FSRU/FSU Operator shall peacefully remove the FSRU/FSU and all associated equipment supplied and deployed by them at KoPT limits (except the subsea pipeline which may be abandoned with prior permission of KoPT) after expiry of the period of agreement/arrangement.
- (b) No compensation shall be paid by KoPT to the FSRU/FSU Operator on expiry of the period of agreement/arrangement.

#### 12. Events of Default:

- (a) If the FSRU/FSU operator fails to perform or discharge any of its obligation under the provisions of the agreement/arrangement.
- (b) The representation made, or documents / certificates submitted or warranties given by the successful tenderer (who subsequently became the FSRU/FSU operator) during the tendering stage or during the currency of the agreement/arrangement is / are found to be false or misleading
- (c) The FSRU/FSU operator is adjudicated bankrupt or become insolvent.
- (d) The FSRU/FSU operator assigns or transfers the equipment to any third party without permission from KoPT.
- (e) If there is any change in control / ownership of the FSRU/FSU operator arising from sale, assignment, transfer without prior permission of KoPT.
- (f) If the FSRU/FSU operator through its employees get engaged or wrongly takes part in prohibited or unlawful activities or even fails to prevent such prohibited / unlawful activities.

#### 13. Termination



- (a) In the event of occurrence of any event of default as mentioned at Clause XV(12) and in terms of Clauses V(iii), VII(vii) and XV(1)(c), KoPT may proceed, at its sole discretion, for terminating the agreement / arrangement by way of giving three (3) months (termination period) notice within which time the FSRU/FSU operator will be required to peacefully remove the FSRU/FSU and all associated equipment supplied and deployed by them at KoPT limits (except the subsea pipeline which may be abandoned with prior permission of KoPT).
- (b) During the termination period of 3 months as at (a) above, the FSRU/FSU operator may be asked by KoPT to continue to discharge its obligations under the agreement/arrangement which the FSRU/FSU operator would be capable of performing and as may be mutually agreed upon with the object, as far as possible, of ensuring continued availability of the facilities and services to the users.
- (c) No compensation shall be paid by KoPT to the FSRU/FSU operator in the event of termination of the agreement/arrangement.

## APPENDIX I

**Covering Letter to Techno-Commercial Bid**

Dated:

To,

The Secretary I/C  
Kolkata Port Trust,  
15, Strand Road,  
Kolkata – 700 001.

Sub: Techno-Commercial Bid for ----- (Tender  
Name) -----(Tender No.)

Dear Sir/Madam,

With reference to your tender document vide Tender No. -----  
I/we, having examined the tender document and understood its contents, hereby  
submit my/our Application/Tender for the aforesaid project. The Application/Tender  
is unconditional and unqualified.

2. I/ We acknowledge that the KoPT will be relying on the information provided  
in the Application/Tender and the documents accompanying such  
Application/Tender for techno-commercial qualification of the Applicants/Tenderers  
for the aforesaid project, and we certify that all information provided in the  
Application/Tender and in Appendices is true and correct; nothing has been  
omitted which renders such information misleading; and all documents  
accompanying such Application/Tender are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as a Bidder for  
the aforesaid Project.

4. I/ We shall make available to the KoPT any additional information it may  
find necessary or require to supplement or authenticate the Qualification  
statement.

5. I/ We acknowledge the right of the 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. 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 KoPT or a judicial  
pronouncement or arbitration award, nor been expelled from any project or  
contract by any public KoPT nor have had any contract terminated by any public  
KoPT for breach on our part.

7. I/ We declare that:
- (a) I/ We have examined and have no reservations to the tender document, including any Addendum issued by the KoPT.
  - (b) I/ We do not have any conflict of interest in accordance with Clauses concerned of the tender 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 the tender document, in respect of any tender issued by or any agreement entered into with the 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 the tender 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/Tender that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with relevant clauses of the tender 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 tender document and are/ is qualified to submit a Bid.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for techno-commercial 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 KoPT 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 KoPT 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. The Statement of Legal Capacity as per format provided in this tender 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 formats provided, are also enclosed.

15. I/ We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956, or shall incorporate as such prior to execution of the Agreement.

16. 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 the 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.

17. I/ We agree and undertake to abide by all the terms and conditions of the tender document.

18. I/ We certify that in terms of the tender document, my/our Networth is Rs. .... (Rs. in words)

19. We agree and undertake to be jointly and severally liable for all the obligations of the FSRU/FSU operator under the Agreement till occurrence of Financial Close in accordance with the Agreement.(for Consortium)

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

Yours faithfully,

Date:

(Signature, name and designation of the Authorised Signatory)

Place:

Name and seal of the Applicant/ Lead Member

## APPENDIX II

**Power of Attorney for signing of Application**

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/tender for the ----- (name of the tender). Project proposed or being developed by the Kolkata Port Trust (the "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 the KoPT, representing us in all matters before the KoPT, signing and execution of all contracts including the Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the 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 Concession Agreement with the KoPT.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things 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 .....

For .....

(Signature, name, designation and address)

Witnesses:

- 1.
- 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 executant(s) 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 - IIA**  
**STATEMENT OF LEGAL CAPACITY**

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

Ref. Date:

To,

.....  
.....

Dear Sir,

**Sub: Tender name [.....] bearing Tender No. [.....]**

Dear Sir,

We hereby confirm that we/ our members in the Consortium satisfy the terms and conditions laid out in the tender 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 tender. 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**  
**POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM**

Whereas the Kolkata Port Trust ("the KoPT") has invited applications/tenders from interested parties for -----  
----- "(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 tender document 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 KoPT 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 the bid of the Consortium and generally to represent the Consortium in all its dealings with the 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 Agreement is entered into with the KoPT.



AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things 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 OF ..... 2.....

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 IV

**Joint Bidding Agreement**

*(To be executed on Stamp paper of appropriate value)*

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

**AMONGST**

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

**AND**

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

**AND**

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

**AND**

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

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

**WHEREAS,**

- (A) [KOLKATA PORT TRUST, established under the Major Port Trust Act-1963 and Principal Offices at 15, Strand Road, Kolkata-700001 (hereinafter referred to as the "**KoPT**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications/tender (the "**Applications**") by its Tender No. .... dated ..... for ----- (the "**Project**").

- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the tender document of the Project, and
- (C) It is a necessary condition under the tender document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the 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 tender document.

**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 Agreement with the KoPT and for performing all its obligations in terms of the Agreement for the Project.

**4. Role of the Parties**

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

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the 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 Other Member of the Consortium.}

## **5. Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the tender document and the Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the 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 network have been reckoned for the purposes of techno-commercial qualification for the Project in terms of the tender document.

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 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 KoPT 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 KoPT to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
  - (i) Require any consent or approval not already obtained;
  - (ii) Violate any Applicable Law presently in effect and having applicability to it;
  - (iii) Violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
  - (iv) Violate any clearance, permit, concession, grant, license or other governmental 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 fulfillment 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 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 Earnest Money Deposit by the 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 the 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

For and on behalf of  
LEAD MEMBER by:

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

SIGNED, SEALED AND DELIVERED

SECOND PART

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

SIGNED, SEALED AND DELIVERED

For and on behalf of  
THIRD PART

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

SIGNED, SEALED AND DELIVERED

For and on behalf  
FOURTH PART

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

In the presence of:

- 1.
- 2.

**Notes:**

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the 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 KoPT to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.



Appendix - V  
**Details of Applicant**

1.
  - (a) Name:
  - (b) Country of incorporation:
  - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
  - (d) Date of incorporation and/ or commencement of business:
  
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
  
3. Details of individual(s) who will serve as the point of contact/ communication for the KoPT:
  - (a) Name:
  - (b) Designation:
  - (c) Company:
  - (d) Address:
  - (e) Telephone Number:
  - (f) E-Mail Address:
  - (g) Fax Number:
  
4. Particulars of the Authorised Signatory of the Applicant:
  - (a) Name:
  - (b) Designation:
  - (c) Address:
  - (d) Phone Number:
  - (e) Fax Number:
  
5. In case of a Consortium:
  - (a) The information above (1-4) should be provided for all the Members of the Consortium.

**Appendix - VI**  
**Net Worth of the Applicant**  
**(In Rs. crore)**

Applicant type	Net Worth		
	Year 1	Year 2	Year 3
Single entity Applicant			
Consortium Member 1			
Consortium Member 2			
Consortium Member 3			
Consortium Member 4			
TOTAL			

**Name & address of Applicant's Bankers:**

An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Applicant may be ignored.

The Applicant should provide details of its own Financial Capability or of an Associate AS specified / defined in the tender document

**Instructions:**

1. The Applicant/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 3 (three) years preceding the Application Due Date. The financial statements shall:
  - (a) reflect the financial situation of the Applicant or Consortium Members and its/ their Associates where the Applicant is relying on its Associate's financials;
  - (b) be audited by a statutory auditor;
  - (c) be complete, including all notes to the financial statements; and
  - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
  
2. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
  
3. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on.
  
4. The Applicant shall also provide an Auditor's Certificate specifying the net worth of the Applicant and also specifying that the methodology adopted for calculating such net worth is in accordance with the methodology given in the tender document.

Appendix VII  
**MGT Bid**

(To be forwarded on the letter head of the Applicant)

(Date and Reference)

**To,**

Dear Sir/Madam,

We, \_\_\_\_\_ **(Name of tenderer/Applicant)**  
having examined the Tender Document and understood its contents, hereby submit  
our **MGT Bid for** \_\_\_\_\_  
**(Tender Name),** \_\_\_\_\_ **(Tender No.)** as per  
instructions contained in the concerned tender document.

I/We agree that this offer shall remain valid for a period of 120 days from the date  
of opening of Cover III (MGT Bid) or such further period as may be mutually  
agreed upon.

We offer a Minimum Guaranteed Throughput (MGT) of \_\_\_\_\_  
MMTPA (million metric tonnes per annum)

Yours faithfully,  
**Signature of Power of Attorney Holder**.....  
**Name:** .....  
**Designation:** .....  
**Date :** .....  
**Seal**

Appendix VIII  
**PROFORMA OF FORM OF AGREEMENT**

**AGREEMENT FOR .....(Project Name)**  
**Made this .....day of.....**  
**Two thousand and .....**

**Between .....**

**Hereafter called the "FSRU/FSU Operator" (which terms shall unless excluded by or repugnant to the context include its successors and permitted assign) of the one part and**

.....  
.....

**hereinafter called the "KoPT" (which terms shall unless excluded by or repugnant to the context include its successors and permitted assign) of the other part.**

WHEREAS :-

(a) KoPT being desirous of getting executed the Work mentioned, enumerated or referred to in the Tender Document including Notice Inviting Tender, Instruction to Tenderers, Special Conditions, and other Documents, has invited tenders.

(b) FSRU/FSU Operator has understood Work specified in the Tender Document and satisfied himself in all respects by careful examination before submitting his Tender as to the nature and magnitude of Work and has made local and independent enquiries and obtained complete information as to the matters and things referred to, or implied in the Tender Document or having any connection therewith, and has considered the nature and extent of all probable and possible situations, delays, hindrances or interference to or with the execution and completion of Work, to be carried out under the Agreement/Arrangement, and has examined and considered all other matters, condition and things and probable and possible contingencies, and generally all matters incidental thereto and ancillary thereof affecting the completion of work and which might have influenced him in making his Bid.

(c) The Notice inviting Tender, Tender Document, Letter of Award by the KoPT, Letter of Acceptance to the LoA by the FSRU/FSU Operator and any other documents and enclosures, copies of which are hereto annexed are included in the expression "Contract" wherever herein used :

And Whereas

KoPT accepted the Bid of the FSRU/FSU Operator for the provision and the performance of Work at upon the terms and subject to the Conditions of Contract.

Now This Agreement Witnesseth And it is hereby agreed and declared as follows :

1. the FSRU/FSU Operator hereby covenants with the KoPT that the FSRU/FSU Operator shall and will duly provide, and complete work and shall do and perform all other acts and things, mentioned or described or which are to be implied therefrom or may be reasonably necessary for completion of Work and at the times and in the manner and subject to the terms and conditions or stipulations mentioned.

2. the FSRU/FSU Operator does hereby agree to pay such sums as may be due to the KoPT and such other sums as may become payable to the KoPT.

IN WITNESS WHEREOF the Parties have executed these presents on the day and the year first above written.

<b>Signed and Delivered For and on behalf of The KoPT</b>	<b>Signed and Delivered For and on behalf of The FSRU/FSU Operator</b>
<b>Date</b> _____	<b>Date</b> _____
<b>Place</b> _____	<b>Place</b> _____

In presence of two Witnesses.

**APPENDIX-IX****Earnest Money Deposit (Bank Guarantee Format)**

(The Bank shall fill in this Bank Guarantee Form. To be executed on Rs.100/- non-judicial stamp paper).

.....  
 (Bank's Name and address of issuing branch)  
 Beneficiary ..... (Name & Address of Employer / Board)  
 Date .....  
 Tender Guarantee No.....

We have been informed that (Name of Tenderer) (hereinafter called "the Tenderer") has submitted to you its tender dt.....(hereinafter called "the Tender") for the execution of (Name of Project) under invitation for tender No.(No.of the NIT). Furthermore, we understand that , according to your conditions tenders must be supported by an Earnest Money Deposit (EMD).

At the request of the tenderer, we (name of the Bank) hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of (amount in figures) (amount in words) upon receipt by us of your first demand in writing accompanied by a written statement , stating that the tenderer is in breach of its obligations under the tender conditions.

This guarantee will expire unless otherwise extended or informed by the employer / Board :-

- a) If the tenderer is the successful tenderer, upon our receipt of copies of the contract signed by the tenderer and the performance guarantee issued to you upon the instruction of the tenderer, OR
- b) If the tenderer is not the successful tenderer upon the earlier of
  - (i) Our receipt of a copy of your notification to the tenderer of the name of the successful tenderer , OR
  - (ii) 28 days after the expiration of the tenderers tender validity or any extended period thereof.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

Signature .....

Name.....

Designation.....

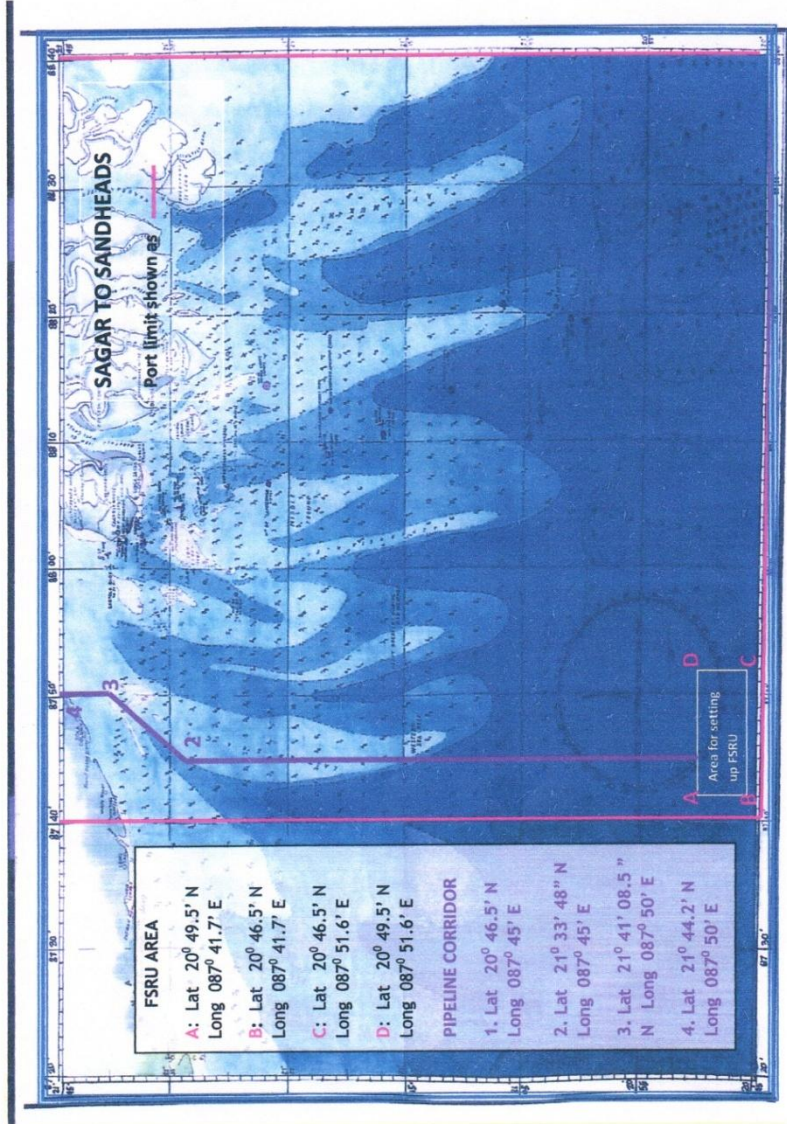
(duly constituted attorney for and on behalf of)

Bank .....

Branch.....

(Official Seal of the Bank)

APPENDIX X



*[Handwritten signature]*