

Item No. A/13/HDC/ADMN/3/09/2022
(Part - I)

Sub: Revision of Schedule of Rent for land of Syama Prasad Mookerjee Port, Kolkata (SMPK) at Haldia Dock-II.

1. BACKGROUND:

1.1. Tariff Authority for Major Ports (TAMP) vide Gazette No. 249 dated 03.07.2018 **(copy at Annex - I) (Pages 260 – 277)** had notified the Schedule of Rent (SoR) for land of SMPK at Haldia Dock-II (HD-II) for a period of 05 years with retrospective effect from 13.04.2017 under the relevant provision of The Major Port Trust Act, 1963 and amendment thereof. Validity of the said SoR for Haldia Dock-II has expired on 12.04.2022.

1.2. The Major Port Trust Act 1963 has since been repealed and replaced by The Major Port Authorities Act, 2021, provisions of which have come into force from 3rd November, 2021.

Also, the Major Port Authorities (Fixation & Implementation of Scale of Rates, Fees and Conditions) Rules, 2021 notified vide GSR No. 824(E) dated 22.11.2021 has prescribed the Rules with respect to framing of the SoR and conditionalities thereof.

1.3. As per Section-27 Sub-Section-1(b) of The Major Port Authorities Act, 2021, the Board of each Major Port Authority or the Committee or the Committees constituted in this behalf by the Board in accordance with Section-14, may, frame Scale of Rates

at which, and the statement or conditions under which, the access to and usage of the port assets may be allowed by the Board.

- 1.4. Further, in terms of provision of Section 27 of The Major Port Authorities Act, 2021 and Section 4 of the Major Port Authorities (Fixation & Implementation of Scale of Rates, Fees and Conditions) Rules, 2021, SMPK Board vide Reso. R/476/HDC/ADMN/3/12/2021 dated 23.12.2021 **(copy at Annex - II) (Pages 278 – 283)** constituted the Committee comprising the following members for framing of Scale of Rates at which and the Statement of conditions under which the access to usage of the port assets may be allowed by the Board :

Dy. Chairman, HDC	: Chairperson of the Committee
GM (Finance), HDC	: Member of the Committee
GM (Traffic), HDC	: Member of the Committee
GM (Engineering), HDC	: Member of the Committee
GM (M&S), HDC	: Member of the Committee

- 1.5. For the purpose of revision of Schedule of Rent for land of SMPK at Haldia Dock-II, M/s. Vestian Global Workforce Services Pvt. Ltd. has been engaged on 06.04.2022 for undertaking market valuation and determination of rent for the land concerned to formulate the revised Schedule of Rent and charges along with conditionalities thereof. The same area of land at Haldia Dock-II as covered in last SoR notified by TAMP vide Gazette of India No. 249 dated 03.07.2018 has been considered for the purpose of present valuation and revision of SoR for Haldia Dock-II.

- 1.6. Considering HDC/SMPK was processing for revision of the SoR of Haldia Dock-II, SMPK Board vide Reso. No. R/78/HDC/ADMN/3/04/2022 dated 28.04.2022 **(copy at Annex - III) (Pages 284 – 287)** approved for extension of the validity of the existing SoR for land of SMPK at HD-II for a period of 6 months w.e.f. 13.04.2022 to 12.10.2022 or till the effective date of implementation of revised SoR to be framed by the Board, whichever is earlier along with enhancement of the rates of existing SoR by 2% w.e.f. 13.04.2022 as per provision of existing SoR. It was further resolved that SoR for land of SMPK at HDC-II should ultimately be merged with the main Schedule of Rent for SMPK land & structures.
- 1.7. The Valuer engaged by SMPK submitted the Valuation Report with the suggested rate of rent for the Land of SMPK at Haldia Dock-II on 14.06.2022. Presentation on the Report so submitted was made by M/s Vestian Global Workforce Services Pvt. Ltd. before the constituted Committee during meeting of the Committee held on 10.08.2022. Based on the observations of the members and further inputs provided thereof, the Valuer has submitted the final Report on 26.08.2022. The said Valuation Report is at **(Annex - IV) (Pages 288 – 319)**.
- 1.8. The Clause-4 of the Traffic Policy for Major Port Authorities Act, 2021 (after the MPA Act 2021 comes into force) issued by the Ministry vide No. PD-14024/5/2020-PD-I (e343443) dated 03.11.2021 contains provisions regarding procedure for fixing the SoR.

Clause-7.5 of the said Traffic Policy also contains that as regards SoR for land and buildings, the provisions prescribed for fixation of SoR under the Land Policy Guideline issued by the Government from time to time shall apply.

1.9. In terms of provision of the Major Port Authority Act, 2021 & Rules thereof and the said Tariff Policy as mentioned in the preceding, the matter is being considered by the Committee constituted by Board for framing of the Scale of Rates and conditionalities thereof under which the access to and usages of the port assets may be allowed by the Board.

1.10. As Dy. Chairman, HDC and all the HODs constituting the Land Allotment Committee at HDC are Chairperson/Members of the Committee constituted by Board for determination of the SoR in terms of the MPA Act, 2021 and Rules thereof, the proposal for revision of SoR is not separately before the Land Allotment Committee.

1.11. The prevailing Land Policy Guidelines issued by the Ministry, inter alia, contains provisions to take into account factors / methodology for determination of the market value of port land based on which the SoR is to be determined.

1.12. In terms of the above, the proposal for revision of SoR has been considered by the Committee constituted by the Board for determination of the SoR in its meeting held on 10.08.2022 and

29.08.2022. Copies of the proceedings of the said Committee meeting are enclosed at (copy at Annex - V) (Pages 320 – 326).

- 1.13. The constituted Committee has examined the Valuation Report submitted by the Valuer engaged by SMPK for determination of market value for land and buildings of SMPK at Haldia as at **Annex-IV**.
- 1.14. The Committee upon deliberations noted that the Valuer has assessed the land values for different zone of HDC in compliance of the provision of prevailing Land Policy Guidelines by taking the highest of the land values for the purpose of estimation of SoR.
- 1.15. The Committee also agreed to the yield for fixation of rent as suggested by the Valuer (i.e. 6%) in line with the prevailing Land Policy Guidelines and also earlier approval of TAMP in respect of the current Rent Schedule for land and buildings of SMPK at Haldia.
- 1.16. With respect to the Statement of Conditions of the proposed revised SoR , the Committee agreed that the provisions contained under Annexure-VI of Committee Report dated 26.05.2022 & 13.07.2022 as considered for the proposed revised SoR for SMPK land and buildings at Haldia Dock Complex (HD-I) [for other than licensing of land/buildings inside Dock Interior Zone for storage of import/export cargo] , which is presently being placed before Board for consideration & final approval (copy at Annex - VI) (Pages

327 – 340) may be made applicable mutatis mutandis for the land at Haldia Dock-II.

- 1.17. The Tariff Policy for Major Port Authorities 2021 (after the MPA Act, 2021 comes into force) issued by the Ministry of Ports, Shipping & Waterways vide No. PD-14024/5/2020-PD-I (e343443) dated 03.11.2021 inter alia contains that as regards Scale of Rates for Land and Buildings, the provisions prescribed for fixation of Scale of Rates under the Land Policy Guidelines issued by the Government from time to time shall apply (Clause-7.5 refers).

The prevailing Land Policy Guidelines [Clause-13(c) of the Clarification Circular (Land Management) NO. 1 of 2019-20 issued by the Government of India, Ministry of Shipping (Ports Wing) vide No. PD013017/2/2014-PD. IV dated 29.04.2019], inter alia contains that the SoR would be re-fixed once in every 5 years.

The last SoR for SMPK land at Haldia Dock-II notified by TAMP was effective from 13.04.2017 for 5 years i.e. up to 12.04.2022. Subsequently, Board has extended the validity of the SoR for further period upto 12.10.2022 or till the effective date of implementation of the revised SoR to be fixed by the Board, whichever is earlier.

In the premises, the Committee has recommended that considering proposed merging of two SoRs (for main SMPK land at HDC [HD-I] as well as Haldia Dock-II) as already approved by Board, the validity of SoR for HDC Dock-II may also be upto

06.04.2026 i.e. upto the proposed validity for the SoR of main SMPK land & structures at HDC (other than Haldia Dock-II).

1.18. Based on the details as above as well as the observations of the Committee given above and as at **Annex-V**, after detailed deliberations, the Committee has recommended the following:

- i) The Valuation Report submitted by M/s Vestian Global Workforce Services Pvt. Ltd. (the Valuer) for the land under Haldia Dock -II at **Annex-IV** may be accepted.
- ii) The proposed SoR rate for land of SMPK under Haldia Dock-II of Rs.1581/- per 100 sq. mtrs. per month may be approved.

Further, it may also be approved that the provisions contained under Annexure-VI of Committee Report dated 26.05.2022 & 13.07.2022 as considered for the proposed revised SoR for SMPK land and buildings at Haldia Dock Complex (HD-I) [for other than licensing of land/buildings inside Dock Interior Zone for storage of import/export cargo] [which is presently being placed before Board for consideration & final approval] may be made applicable mutatis mutandis for the land at Haldia Dock-II.

- iii) The proposed SoR for land of SMPK under Haldia Dock-II may be ultimately merged and incorporated in the proposed SoR for land & structures of SMPK at Haldia Dock Complex (HD-I).

- iv) The Valuation Report and proposed SoR for land of SMPK under Haldia Dock-II as recommended by the Committee may be placed before the Board for its consideration & approval for further uploading in the websites, intimation to the stakeholders and obtaining views / observations from the stakeholders.

2. PROPOSAL :

- 2.1. Approval to the recommendations of the Committee as given in the proceedings of the meetings of the constituted Committee held on 10.08.2022 & 29.08.2022 as given at **Annex-V** in respect of the following :

- i) Acceptance of the Valuation Report submitted by M/s. Vestian Global Workforce Services Pvt. Ltd. (the Valuer) for the land of SMPK at Haldia Dock-II at **Annex-IV**.
- ii) Approval to the proposed Schedule of Rent of Rs. 1581/- per 100 sq. mtrs. per month for land of SMPK at Haldia Dock-II.

Further, it may also be approved that the provisions contained under Annexure-VI of Committee Report dated 26.05.2022 & 13.07.2022 as considered for the proposed revised SoR for SMPK land and buildings at Haldia Dock Complex (HD-I) [for other than licensing of land/buildings inside Dock Interior Zone for storage of import/export cargo], which is presently being placed before Board for consideration & final approval (copy at

Annex-VI), may be made applicable mutatis mutandis for the land at Haldia Dock-II.

- 2.2. The Valuation Report and proposed SoR and provisions thereof for land of SMPK under Haldia Dock-II as recommended by the Committee may be placed before the Board for its consideration & approval for further uploading in the websites, intimation to the stakeholders and obtaining views / observations from the stakeholders.

3. **JUSTIFICATION :**

Already given under Background Notes.

4. **DECISION REQUIRED :**

Approval to the proposal as given under Para-2 above.

The proposal was explained to the Members.

After discussion, the Members decided to approve the proposal with the condition that the separate SoR of Haldia Dock – II should be merged with the main SoR of KDS and HDC.

Resolution No. R/249/HDC/ADMN/3/09/2022 : Members, after discussion, resolved to sanction the proposal for revision of the Schedule of Rent for the land of Syama Prasad Mookerjee Port, Kolkata (SMPK) at Haldia Dock-II as at para-2.1 & 2.2 of the agenda. It was also resolved to merge the SoR of Haldia Dock – II with the main SoR of KDS and HDC, subsequently.

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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 249

New Delhi,

03 July 2018

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Kolkata Port Trust (KOPT) for revision of schedule of rent for KOPT's land at Haldia Dock Complex – II as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports**Case No. TAMP/10/2018-KOPT****Kolkata Port Trust****Applicant****---
QUORUM**

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER(Passed on this 8th day of June 2018)

This case relates to a proposal received from Kolkata Port Trust (KOPT) for revision of schedule of rent for KOPT's land at Haldia Dock Complex (HDC) – II.

2.1. The existing Schedule of Rent (SOR) for KOPT's land at HDC – II was approved by this Authority vide its Order No. TAMP/40/2011-KOPT dated 14 February 2012. This Order was notified in the Gazette of India on 14 March 2012 vide Gazette No. 64. Accordingly, the SOR came into effect from 13 April 2012 after expiry of 30 days period from the date of notification of the Order in the Gazette and was valid for a period of 5 years i.e. upto 12 April 2017.

2.2. Thereafter, the KOPT vide its correspondences had requested for extension of validity of the existing rentals on the ground that it has engaged a valuer for the purpose of revising the rentals and that it would require some time to carry out the valuation of land at Shalukkhali.

2.3. Based on the request made by KOPT and considering the time required for processing the proposal to be filed by the KOPT and in order to avoid a vacuum in the SOR of KOPT, this Authority considered the request made by KOPT and has extended the validity of SOR at periodic intervals. On the last occasion, the validity was extended upto 31 March 2018 vide Order dated 19 January 2018.

2.4. While extending the validity, it has been stipulated that the annual escalation of 2% will continue to apply during the extended validity period of the Rent Schedule for the land of KOPT at Shalukkhali, Haldia Dock – II. It has also been indicated in the extension Orders that the annual escalation of 2% is only a provisional arrangement to avoid vacuum in lease rentals and that the lease rentals to be fixed for the land of KOPT at Haldia Dock – II, based on a proposal to be filed by KOPT in this regard, would have to be given a retrospective effect from 13 April 2017, as the Land Policy Guidelines requires this Authority to fix lease rentals every five years.

2.5. Further, while extending the validity, the KOPT was advised to file its proposal for revision of Rent Schedule, following the amended Land Policy Guidelines, 2014, issued by the Government, by 31 January 2018.

3.1. In this backdrop, the KOPT vide its letter No. Ad/E/1032/SD/Shalukkhali/V/7109 dated 9 February 2018 has filed its proposal following amended Land Policy Guidelines, 2014, for fixation of Schedule of Rent for KOPT's land at HDC – II. At our request, the KOPT vide its email dated 28 February 2018 has furnished the contact details of the users / user organizations to be consulted in the case in reference.

3.2. Thereafter, the KOPT vide its email dated 5 March 2018 has stated that some inadvertent calculation/ typographical errors under para 9 of the Valuation Report have been corrected by Valuer and that the Valuer has submitted a revised report to KOPT. Accordingly, the KOPT has forwarded the revised valuation report and has requested to consider the revised Valuation Report. The KOPT has also stated that there is no change in proposed rate of rent of land at Haldia Dock-II and that the rentals are same as proposed by KOPT vide its earlier letter dated 9 February 2018.

4.1. The KOPT has prepared the proposal based on the valuation Report of December 2017 of M/s. Associated Valuers who were engaged by the KOPT as a valuer for the valuation purpose and in terms of "Land Policy Guidelines 2014 issued by the Ministry of Shipping on 17 July 2015. The salient points of the Valuation Report submitted by the Valuer (as reflected in the Agenda note placed by the KOPT before its Board of Trustees) are as follows:

- (i). The entire KOPT land at HDC-II of 162.84 acres abutting the river Hooghly is for development of dock and dock related facilities including jetties, terminals, storage facilities/ tankages, allied facilities for cargo evacuation etc.
- (ii). State Govt. ready reckoner is not available in West Bengal.
- (iii). No tender rates of the port land at HDC-II are available.
- (iv). The highest rate of transaction of land parcels in the vicinity mouzas in the last 3 years obtained from the sub-Registry Office has been considered for valuation of the subject land in line with the provision of the Land Policy Guidelines. Based on actual transaction rate, relevant issues including those mentioned below have been factored in for arriving at the market value of land at HDC-II.
- (a). The relevant transaction in last 2-3 years in the vicinity are mostly for rural residential use.
- (b). The Baastu (residential) purpose rates and industrial purpose rates in the adjacent mauzas vary to the tune of 16-19%, as seen from the online portal of the Directorate of Registration and Stamp Revenue, Govt. of West Bengal.
- (c). To remove inconsistencies between the subject area and comparable land parcel in terms of area of the land parcel, suitable discount factor has been applied.
- (d). The nature of utilization of the land at HDC-II which is for dock and dock related facilities is not comparable with the adjacent area. Such dock facilities have better infrastructural facilities, access, security etc.
- (e). Calculation for the lease rentals for Haldia Dock Complex- II is as follows:

Highest sale transaction in the vicinity (for residential)	93450	Rupees per decimal
Add: 15% Premium (to factor difference in value of residential & industrial)	14018	Rupees per decimal
Add: 25% Premium (to factor availability of better infrastructure in port lands)	23363	Rupees per decimal
Less: 5% Discounting factor (to factor that larger plots will be priced lower)	4673	Rupees per decimal
Adopted value of industrial land (freehold)	126158	Rupees per decimal
Adopted value of industrial land (freehold) (1 acre = 100 decimal)	12615850	Rupees per acre
Area of freehold land	112.25	acres
Market Value of Industrial freehold land [112.25 x 12615850]	1416129163	Rupees
Base Value of leasehold land	12615850	Rupees per acre
Area of leasehold land	50.59	acres
Market Value of leasehold land [50.59 x 12615850]	638235852	Rupees
8% Return	51058868.1	Rupees
Less: 10% towards Property tax & other expenses	5105886.81	Rupees
Net Annual Return (NAR)	45952981.3	Rupees

Multiplication factor (considering alternative investment opportunity and without lease renewal clause)	9.84	---
Market Value of leasehold area	452177336	Rupees
Capital Value of entire land	1868306499	Rupees
Lease Rent @ 6% of Market value of land	112098390	Rupees per annum for 162.94 acres
	9341532.49	Rupees per month for 162.94 acres
	14.1668155	Rupees per month for 1 sq.m
	1416.68155	Rupees per month for 100 sq.m
Lease Rent proposed by KOPT (rounded off)	1417.00	Rupees per month for 100 sq.m

- (v). The valuer has recommended annual lease rent to be 6% of the market valuation of the land. The above is in conformity with the Land Policy Guidelines.
- (vi). Considering the suggested market value of land and yield of 6%, the rate of rent for the land at HDC – II has been assessed as ₹.1417 per 100 sq. mtrs. per month. This rate is 4.4% higher than the current rate of ₹. 1356.91 per 100 sq. mtrs. per month.
- (vii). The Land Allotment Committee (LAC) headed by the Dy. Chairman of HDC and comprising of General Manager (M&S), General Manager (Finance) i/c, General Manager (Traffic) i/c and Sr. Dy. Manager (Admn) as Members in its meeting held on 19 January 2018 has accepted the Valuation Report and has recommended the proposed rentals.

4.2. Accordingly, the proposal of KOPT is as follows:

“(i). Land:

Description of Land	Rate of rent/ licence fee per 100 sq. mtrs. per month
Land at Haldia Dock - II	₹.1417/-

(ii). Other Charges:

- (a). Charges for using the waterfront abutting HDC-II land shall be 50% of the scheduled rent/ licence fee of the land i.e. ₹.709 per 100 sq. mtrs. per month.
- (b). Way leave permission fee will be charged as follows:
- (i). For laying essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric lines running on single pole etc. way leave charges shall be levied at the rate of ₹.1500/- per calendar year or part thereof.
- (ii). For allowing overhead conveyors and high voltage transmission lines with towers, way leave charges will be charged on the basis of scheduled rent for the area coming in the alignment of the structures.

- (iii). For laying pipelines carrying Crude Oil, POL Products and other Liquid Cargo over or under the ground, way leave charges will be levied as follows:

For the purpose of way leave charges, the area occupied by single pipelines shall be calculated based on the diameter and length of those pipelines. In case of multi-layer pipeline stacks shall be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails jetties etc. the respective users shall be billed pro-rata for 50% of the concerned area assuming that they do not have exclusive possession of land and what they have is only 'Right of Way'. As far as underground pipes are concerned if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines shall be counted 50% of the product of diameter and length, for the purpose of levy of way leave charges."

4.3. The KOPT has also proposed an annual escalation of proposed rentals at 2% per annum.

4.4. Further, the KOPT has stated that the Board of Trustees of KOPT in its meeting held on 29 January 2018 has approved the Rate proposal of the Land Allotment Committee (LAC). The copy of the Minutes of the Board is furnished by KOPT.

5. In accordance with the consultative procedure prescribed, a copy each of the KOPT proposal dated 9 February 2018 and letter dated 5 March 2018 was forwarded to the concerned users/ user organizations/ vide our letter dated 7 March 2018, seeking their comments. However, none of the users / user organizations have responded till the case was finalized.

6.1. Further, while acknowledging the proposal to KOPT vide our letter dated 7 March 2018, the KOPT was requested to furnish some information. The KOPT has responded vide its email dated 29 March 2018. The information sought by us and response of KOPT thereon is tabulated below:

Sr. No.	Information Sought by us	Reply of KOPT								
(i).	KOPT to clarify whether the land in HDC – II area is covered under the Land Use Plan of KOPT.	The KOPT land at Haldia Dock-II is not covered under the Land Use Plan of HDC. However, the entire land at Haldia Dock-II is for setting up of port facilities on the west bank of river Hoogly for expansion of HDC. The area is mandated to be utilized for setting up of riverine terminals /jetties and port related and port based facilities which will aid in growth of cargo to HDC, KOPT.								
(ii).	The proposal for 50% increase in way leave charges for laying essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric line running on single pole, etc. from the existing rate of ₹.1000/- per calendar year or part thereof to ₹.1500/- per calendar year or part thereof, to be justified.	The proposed increase (by 50%) from ₹. 1500/- per calendar year or part thereof to ₹. 2000/- per calendar year or part thereof is on the basis of similar percentage increase considered by TAMP in case of SOR for land and building of HDC notified in 2017 as may be seen from the table below: <table><tr><th>Rate as per HDC SOR notified in 2011 (per calendar year or part thereof)</th><th>Rate as per revised HDC SOR notified in 2016 (per calendar year or part thereof)</th><th>Percentage Increase [(II) over (I)]</th></tr><tr><td></td><td></td><td></td></tr></table>			Rate as per HDC SOR notified in 2011 (per calendar year or part thereof)	Rate as per revised HDC SOR notified in 2016 (per calendar year or part thereof)	Percentage Increase [(II) over (I)]			
Rate as per HDC SOR notified in 2011 (per calendar year or part thereof)	Rate as per revised HDC SOR notified in 2016 (per calendar year or part thereof)	Percentage Increase [(II) over (I)]								

		I	II	III
		₹. 1438/-	₹. 2000/-	40%

6.2. While furnishing the above response, the KOPT has stated that since the validity of existing SOR of KOPT's land at Haldia Dock-II is upto 31 March 2018 and since the subject proposal for revision of SOR is under consideration, TAMP may suitably consider the extension of the validity of the existing SOR beyond 31 March 2018 to avoid any void.

7. A joint hearing on the case in reference was held on 22 March 2018 at the KOPT premises in Kolkata. At the joint hearing, the KOPT has made its submissions.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

9. With reference to the totality of the information collected during the processing of the case, the following position emerges:

- (i). The Rent Schedule for the land at Haldia Dock – II of Kolkata Port Trust (KOPT) was last fixed by this Authority vide Order No.TAMP/40/2011-KOPT dated 14 February 2012. Vide the said Order, rent/ licence fee of ₹ 1229/- per 100 sq. mtrs. per month was fixed for the Bare land in the Dock Interior Zone (inside custom bonded area). The said SOR came into effect from 13 April 2012 and was valid for a period of 5 years i.e. upto 12 April 2017. Thereafter, at the request of KOPT, this Authority has extended the validity of the existing Rent Schedule beyond 12 April 2017. On the last occasion, the validity of the Rent Schedule has been extended upto 31 March 2018. In this backdrop, the KOPT has come up with a proposal for revision of the Rent Schedule for the land at Haldia Dock – II. The proposal of KOPT has the approval of its Board of Trustees.
- (ii). The KOPT has filed its complete final proposal in March 2018. The said proposal alongwith the information/ clarification furnished by KOPT during the processing of the case, is considered in this analysis.
- (iii). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The KOPT has, thus, come up with a proposal for revision of the Rent Schedule for the land at Haldia Dock – II, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.
- (iv). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, a LAC is seen to have been constituted in the case in reference, which has been headed by the Dy. Chairman of HDC and comprising of General Manager (M&S), General Manager (Finance) i/c, General Manager (Traffic) i/c and Sr. Dy. Manager (Admn) as Members of the Committee.
- (v). (a). As stated earlier, para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for

similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as may be identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

- (b). In this connection, the LAC has observed from the Valuer's Report that the State Government Ready Reckoner rate is not available in West Bengal and there are no tenders for the land at Haldia Dock – II. Therefore, the approach adopted by the Valuer for arriving at the market value of land based on the highest sale transaction rate in the vicinity and thereafter applying premium/ discount factors to remove inconsistencies between the subject area and comparable land parcels, has been considered by the LAC.
- (c). The entire land of Haldia Dock-II of 162.84 acre consists of 112.25 acre of free hold land and 50.59 acre of lease hold land. The premium/ discount factors considered by the Valuer on the highest sale transaction rate in the vicinity for valuation of free hold land of 112.25 acres are as follows:
 - (i). 15% premium on Residential sale transaction rate has been considered considering the general trend of difference in rate for Residential usage and industrial usage of vicinity land areas as noted from the reference valuers available from official website of Directorate of Registration and Stamp Revenue, Govt. of West Bengal.
 - (ii). A 25% Premium to factor availability of better infrastructure in port lands, as compared to the rural residential areas.
 - (iii). A 5% Discounting factor to factor the position that larger plots will be priced lower, as compared to smaller residential areas.
- (d). The market value has been arrived at by the Valuer for the lease hold industrial land by considering 8% Return on the market value of leasehold area, 10% reduction towards Property tax & other expenses and a Multiplication factor of 9.84 to consider alternative investment opportunities and without lease renewal clause.
- (e). Thus, market value of the entire land of 162.84 acres comprising of freehold land lease hold land has been arrived by the Valuer.
- (f). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land [determined based on the five factors in accordance with para 13(a)] and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Based on the derived market value of land for the land at Haldia Dock – II, the Reserve Price in terms of the Annual Lease Rent for the land at Haldia Dock – II has been recommended by the Valuer at 6% of the market value of land so derived.
- (g). Based on the above position, the LAC has accepted the recommendations contained in the Valuation Report of the Valuer. In other words, the market value of land as well as the Reserve Price in terms of the Annual Lease Rent for the land at Haldia Dock – II, as arrived at by the Valuer has been recommended by the LAC in its Report. Accordingly, the lease rental for the land at Haldia Dock - II has been recommended by the LAC at ₹ 1417/- per 100 sq.m per month.

- (h). Subsequent to recommendation of the LAC, the matter has been referred to the Board of Trustees of KOPT. The Board of Trustees has approved the Rate proposal of the LAC.
- (vi). Considering that the Annual Lease Rent derived by the Valuer taking into account the market value of the land has been recommended by the LAC and given that the Board of Trustees of KOPT has approved the recommendation of the LAC and since none of the users/ prospective bidders have objected to the rentals proposed by the KOPT, this Authority is inclined to prescribe the Lease Rent for the land at Haldia Dock – II at ₹ 1417/- per 100 sq.m per month. Incidentally, the proposed rental is seen to be about 4.4% higher than the escalated rate of ₹ 1356.91 per 100 sq. mtrs. per month, that prevailed as on February 2017, when the initial tariff period of 5 years came to an end.
- (vii). For using the waterfront abutting Haldia Dock – II, the KOPT has proposed levy of 50% of the scheduled rent/ licence fee at ₹ 709/- per 100 sq. mtrs. per month. Prescription of licence fee for the water area at 50% of the licence fee of abutting land is in line with the stipulation contained in Clause 12(I) of the amended Land Policy Guidelines of 2010 and hence is approved.
- (viii). The KOPT has proposed a 50% increase in way leave charges for laying essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric line running on single pole, etc. from the existing rate of ₹ 1000/- per calendar year or part thereof to ₹ 1500/- per calendar year or part thereof, on the ground that similar percentage increase was considered by this Authority while approving the way leave charges for laying essential utility service lines in March 2017, as part of the Rent Schedule for the lands and buildings of KOPT at Haldia. Considering that the LAC has recommended the way leave charges and the Board of Trustees of KOPT has approved the recommendation of the LAC and since none of the users/ prospective bidders have objected to the proposed way leave charges, the proposal of the KOPT in this regard is approved.
- (ix). The KOPT has proposed an annual escalation of 2% per annum after expiry of one year from the effective date of implementation of revised rentals. In this regard, it is relevant here to mention that Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Since the annual escalation rate of 2% is recommended by the LAC, approved by the KOPT Board of Trustees and is as per the provision of the Land Policy Guidelines of 2014, the proposed rate of 2% annual escalation is approved.
- (x). The KOPT has proposed various notes and conditionalities in the rent Schedule pertaining to the land at Haldia Dock – II. Many of the notes and conditionalities are seen to be in line with the stipulations contained in the amended Land Policy Guidelines, 2014. Remainder of the notes are seen to be as prescribed in the Rent Schedule for the lands and buildings of KOPT at Kolkata and Haldia in March 2017 and hence is approved.
- (xi). While extending the validity for the Rent Schedule for the land at Haldia beyond the initial validity period upto 12 April 2017, it has been stated that the annual escalation of 2% will continue to apply during the extended validity period of the Rent Schedule for the land of KOPT at Haldia Dock – II. It has also been indicated in the Orders that the annual escalation of 2% is only a provisional arrangement to avoid vacuum in lease rentals and that the lease rentals to be fixed for the land of KOPT at Haldia Dock – II, based on a proposal to be filed by KOPT in this regard, would have a retrospective effect from 13 April 2017, as the Land Policy Guidelines requires this Authority to fix lease rentals every five years. Accordingly, the revised rental approved in respect of Haldia Dock – II will be effective from 13 April 2017.

- 10.1. The revised Rent Schedule for Land at Haldia Dock – II is attached as **Annex**.
- 10.2. The revised Rent Schedule for the Land at Haldia Dock – II will be effective from 13 April 2017 and shall remain valid for a period of 5 years upto 12 April 2022. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

**SCHEDULE OF RENT FOR LAND OF KOLKATA
PORT TRUST AT HALDIA DOCK - II.**

I. Land :

Description of land	Rate of rent/ licence fee per 100 sq. mtrs. per month in ₹.
Land at Haldia Dock – II	1417/-

II. Other Charges :

A. Charges for using the waterfront abutting Haldia Dock –II land shall be 50% of the scheduled rent / licence fee of the land i.e. ₹.709/- per 100 sq. mtrs. per month.

B. Way leave permission fee will be charged as follows :

- i) For laying essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric lines running on single pole, etc. way leave charges shall be levied @ ₹.1500/- per calendar year or part thereof.
- ii) For allowing overhead conveyors and high voltage transmission lines with towers, way leave charges will be charged on the basis of scheduled rent for the area coming in the alignment of the structures.
- iii) For laying pipelines carrying Crude Oil, POL Products and other Liquid Cargo over or under the ground, way-leave charges will be levied as follows:

For the purpose of way leave charges, the area occupied by single pipelines shall be calculated based on the diameter and length of those pipelines. In case of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks shall be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails, jetties, etc., the respective users shall be billed pro-rata for 50% of the concerned area assuming that they do not have exclusive possession of land and what they have is only 'Right of Way'. As far as underground pipes are concerned if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines shall be counted 50% of the product of diameter and length, for the purpose of levy of way leave charges.

III. Notes :

1. Annual Escalation and revision of SoR:

1. The rates indicated in the SoR shall get automatically escalated by 2% per annum after expiry of one year from the effective date of implementation of this instant SoR and after every year thereafter, the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year.

B. Conditionalities for allotment of land:

B.1 The allotment of land will be for activities directly related to setting up of port facilities, port operations and/or which aid the port activities and sea trade as per provisions of prevailing Land Policy Guidelines issued by the Central Govt.

B.2 Allotment of land may be made on Lease/ Licence basis.

B.3. Lease:

1. Lease of land shall be granted by inviting tender-cum-auction methodology through a competitive bidding process over and above the reserve price of such plots, which shall be the updated SoR notified by TAMP, save and except the following cases:-

- (i). For establishment of common utilities like sewage plant, water treatment plant, etc. by local bodies, land can be allotted by the Port Trust on nomination basis provided, allotment is in the interest of the Port Trust. The land allotted to such entities is to be used exclusively for the purpose for which it has been allotted and under no circumstance, the usage can be changed. No transfer/sub-letting of such lease will be permitted. Concession in lease rent can be provided by the Port Trust Board as provided under para (ii) below for establishment of common utilities like sewage plant, water treatment plant, etc by local bodies provided, they are in accordance with approved master plan of the city and the land is not required for the Port's own use.

- (ii). Land can also be allotted on nomination basis to Government Departments, Statutory Local Bodies, Statutory Authorities/Autonomous Organizations under State/ Central Ministries, Central Public Sector Undertakings (CPSUs), State Public Sector Undertakings (SPSUs) and security agencies like State Police, CISF, Coast Guard and Navy, subject to the availability of land and on the basis of updated SoR. In cases where any CPSU/SPSU/Statutory Authority enters into Joint Ventures (JV) with private party/parties and the said CPSU/SPSU/Statutory Authority is the lead promoter and has the largest share-holding in the said JV, Port Trust Board may decide to allot land to them also on nomination basis with the approval of the Port Trust Board after incorporating appropriate safeguards.

Concession may be granted to security agencies and Government Departments only upto 50% of the annual lease rent. However, in respect of land to be allotted to Government departments which are essential to the functioning of the Port like Customs, electricity department, health department and for core security functions, concession upto 75% of the annual lease rental may be considered by KoPT. But such concession may be given for only small extent of land required for core operational purposes imperative for Port functioning and not otherwise. The issue of granting concession and the quantum may be decided on a case to case basis by the KoPT Board, after recording the reasons in writing.

2. Period of lease:

Leases may be granted upto a maximum cumulative period of 30 years by the KoPT Board.

Leases beyond 30 years for capital intensive investment like tank farms, refineries etc. may also be granted with the approval of the Central Govt.

In respect of PPP projects, approval of the project by the Competent Authority will be taken as approval for the license of the land component of the project.

3. Methodology of granting leases other than through nomination:

- (a) The land may be leased by the port either on (i) payment of one time upfront amount for the entire lease period and a nominal lease rent of Re 1/- per sq. meter per year for the currency of the lease period or (ii) annual lease rent basis.
- (b) For leases granted through tender cum auction methodology, the bidding parameter will be as follows :-
 - (i). On Upfront payment basis : Reserve price will be the NPV of the sum total of annual lease rentals calculated at the updated SoR escalated annually by 2%. The discount factor would be the longest term G Sec rate as per the latest RBI Bulletin.

- (ii). On annual lease rent basis: The reserve price would be the annual lease rent calculated at the updated SoR.

Note: In both the cases, the bidders will have to quote upfront payment / annual lease rent over and above the reserve price.

4. **Mutation :** The following cases will be treated as cases of mutation and for granting such mutation, a fee equivalent to 5% of the 12 month's rent (excluding applicable Taxes, Duties, Ceses) or ₹ 20,000/- whichever is higher shall be recovered :
- (i) In case of death of the lease, transfer to the legal heirs or legal successor or representative.
 - (ii) Transfer consequential to the order of the Court or as per new Certificate of Incorporation as per Registrar of Companies.
 - (iii) Transfer consequential to lessee becoming subject to laws of insolvency or liquidation
 - (iv) Gratuitous transfer to any of the legal heirs due to old age, infirmity or some other valid reasons.
5. **Transfer of leases:** The lessee may be allowed to transfer the lease as per extant laws after obtaining prior approval of the KoPT Board provided transferee takes over all the liabilities of the original lessee / allottee. Such transfer shall be for the remaining duration of the lease and in accordance with the land Use plan of the Port. Before allowing such transfer, the KoPT shall recover:-
- (i) In case of leases granted on upfront basis : In case of those lands which were originally given on lease on upfront rental basis, the transfer as per extant laws may be allowed subject to the transferee agreeing to pay the following :
 - (a) An undertaking for payment of the upfront rental as calculated on pro-rata basis for the balance period, and
 - (b) A fee equal to 50% of the pro-rata upfront rental payable upto the time of transfer.
 - (ii) In case of leases granted on annual lease rent basis transfer may be allowed subject to :-
 - (a) An undertaking for payment of the annual lease rental for the balance period, and
 - (b) A fee equivalent to 50% of the total lease rent payable by the original lessee upto the time of transfer.
 - (iii) Transfer of lease shall not be permitted where land was initially allotted on nomination basis or at concessional rates of lease rent.
 - (iv) In respect of cases where the transferors extract premium on the transfer of the lease, 50% of such premium is to be paid to KoPT.
6. **Mortgage:** KoPT will grant NOC for mortgaging of leasehold interest only in favour of reputed financial intuitions / scheduled banks subject to KoPT retaining the first charge on them and recovery of fees as will be decided by the board.

7. Subletting:

- (i). The existing lease holder may be allowed to sublet / partially sublet the leased premises from a prospective date to another party for the same purpose for which it was originally allotted, provided, the lease deed has enabling provision for the same. Also, purpose of such subletting shall be in accordance with the land use

plan and before allowing this, the Port shall recover 50% of the rent charged by the lessee from the sub-lessee, for the entire period of sub-lease, irrespective of the fact whether land was originally allotted on upfront basis or annual rental basis. The original lessee would continue to remain responsible for payment of lease rent and for adherence to the terms and conditions of lease. Leased premises shall also include structures built on leased land for the purpose of recovering of subletting fees. Exemption from collecting subletting fees may be given in case of FTZ, SEZ etc. wherein the business model is based on subletting only.

- (ii). No subletting will be allowed for leases granted on nomination basis.

8. **Change of use of leased land-**

Change of use of leased land may be permitted on receipt of prior application subject to such change being in conformity with the land use plan and the covenants of the lease and payment of –

- (i) Higher rate of rent for the new usage as per prevailing updated SoR from the date of change of purpose, as applicable. In case the existing rate is higher than the rate of proposed new purpose, the existing rate will continue with annual escalation as per lease agreement, and
- (ii) Fees equivalent to lease rent (applicable as per 8(i) above) for 6 months and applicable Tax.

9. **Termination & Imposition of Penalty:**

- (a) In case the leased land is not used for the purpose for which it is granted, (within two years of its allotment or as decided by the KoPT Board), the lease will be terminated and the possession of the land so allotted will be resumed by KoPT.
- (b) If a lessee breaches / violates any provisions of Lease Agreement, the KoPT Board would reserve the right to impose appropriate penalty on the lessee or terminate the lease depending upon the nature / magnitude of breach / violation. Such penalty may be imposed after giving a reasonable opportunity to the lessee to present the case.

- 10. **KoPT's right to resume possession and impose MGT:** (a) KoPT shall have the right to resume possession of the leased land in public interest before expiry of lease period. In such cases, subject to availability of land, the lessee may at the discretion of the KoPT Board be given an option to relocate the activities in another suitable location to be offered by KoPT, as per the land use plan or refund proportionate upfront premium if the land was leased on upfront basis. (b) KoPT would have the option to prescribe Minimum Guaranteed Traffic / Minimum Guaranteed Revenue as conditions for fresh leases if deemed fit.

B.4. **Other utilization of land:**

- i) When entering into a joint venture for improving Port connectivity or Port development with any public authority, land required for such projects, valued at the latest SoR may constitute the equity of the Port in such joint ventures.
- ii) The Port Trust shall not entertain any proposal for allotment of land to religious institutions or for religious purposes or to political institutions.
- iii) In respect of PPP projects, the annual lease rent based on latest SoR with the approved rate of annual escalation would be indicated to the bidders at the bidding stage itself. With respect to land allotted for captive facilities, the lease rentals for the land allotted shall be recovered from the user as per the annual lease rental based on latest SoR, with the approved rate of annual escalation.

B.5. **Licence:**

Licence of land can be given only for port related activities and for cases where it will not be feasible to make such allotments on lease basis. Such licences will be granted normally through tender cum auction procedure. In cases where the tender cum auction is not possible the land may also be allotted on license basis at the latest updated SoR. Besides, the other conditions and methodology in case of licensing of land as given below will also be applicable:

1. The licence shall be upto a maximum period of 11 months. The period of licence can be renewed at the discretion of KoPT. If the licensee requires renewal of the license, an application for renewal must be made to the authority concerned of KoPT well in advance.
2. The licensee shall utilize the allotted land for the purpose for which it is licensed. No change in purpose of utilization will be allowed. The space allotted shall also not be subletted / assigned / transferred.
3. The license is terminable on 7 days' notice on either side. No claim for any compensation whatsoever for termination of the license will be entertained.
4. The licensee shall agree to comply with all rules and directions issued by KoPT from time to time. If the licensee neglects to comply with such rules or directions, the port may terminate the license.
5. The licensee shall comply with all rules or regulations that may from time to time be issued by the Dock Safety or the Department of Explosives or any other Appropriate Authority in relation to storage of cargo.
6.
 - (i). Cargo stored under a license shall be at the entire risk and responsibility of the licensee. The licensee shall post his own watchman to safeguard the cargo stored at the allotted space and to prevent any unauthorized occupation of such space by others.
 - (ii). The licensee shall make his own arrangements to keep the allotted land and its surroundings neat, clean and in proper sanitary condition.
 - (iii). The licensee shall, at his own arrangements, display signboards containing name of the licensee, plate no. & validity of licence.
7. In addition to payment of license fee as per prevailing SOR, the licensee shall pay municipal tax, if required and as applicable.
8. The license fee prescribed under the SOR shall get automatically escalated by 2% per annum after expiry of one year from the effective date of implementation of this instant Rent Schedule and after every year thereafter the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year and will be applicable forthwith on all such licences / occupations in force.
9. The total licence fee towards the initially granted license period shall have to be paid in advance and only one month's license fee is to be deposited as Security Deposit (SD).

The SD will be refunded to the licensee upon handing over of vacant, peaceful, unencumbered possession of the concerned land to KoPT after adjusting dues to KoPT, if any.
10. Encroachment or unauthorized occupation of land and Railway tracks, etc. by the licensee will involve a liability to pay a penalty at the rate of ten times the scheduled licence fee, in addition to the cost of rectification of damages caused to the Port properties. If the licensee fails to remove cargo, if kept, from the encroached area in spite of notice to do so, the cargo will be removed elsewhere by the Port at the risk and cost of the licensee and penal licence fee at the rate of ten times the normal rate will be levied on the space occupied by the cargo so removed.

11. After the expiry / termination / determination / forfeiture of the licence, if the licensee continues to occupy it unauthorizedly, the licensee shall be liable to pay compensation for wrongful use and occupation at the following rates till vacant possession is obtained :-

First 30 days	3 times the rate as per prevailing SOR
Next 30 days	5 times the rate as per prevailing SOR
Continued unauthorized occupation beyond 60 days	10 times the rate as per prevailing SOR

12. The licence fee, compensation charges, other dues along with the applicable Tax shall be paid within the due date specified in the Bills / Invoice or Demand Notice.
13. The licence fee will be charged from the date of handing over possession of the land and occupation of actual area of the land to be found on demarcation by the licensee.
14. The licensee shall not cause any damage to KoPT properties. If, however, any damage is caused, the licensee shall be liable to make good the damages at his own cost and arrangement to the satisfaction of KoPT.

B.6. Other Conditions

1. Other Charges :

- (a) In addition to rent / license fee, the lessees/licensees will be required to pay the following:
- (i) Municipal tax etc. as applicable.
 - (ii) Electricity charges / water charges at actuals plus 19.25% on the actual amount as overheads, if electricity / water is supplied from KoPT Sources.
- (b) The lessees/licensees will also be required to pay and discharge all present and future rates, GST, Cesses, taxes, duties, charges assessments, outgoing and premium in respect of policy of insurance against any risk whatsoever which are now or may at any time hereafter be assessed, charged or imposed upon or payable in respect of the demised land and / or any factory and / or building or structure erected by the lessees / licensees thereon or the owners or occupiers in respect thereof except the owners' share of municipal taxes in respect of the demised land.

2. Security Deposit:

Security Deposit shall be recovered as follows:-

(a) In respect of leases :-

- (i) In case of lease on upfront basis, non-interest bearing security deposit equivalent to Two Years rent @ ₹. 1/- per sq. mtr. per year shall be recovered.
- (ii) In case of lease on annual lease rent basis, non-interest bearing security deposit equivalent to Two Years rent as per updated SoR shall be recovered.
- (iii) The Security Deposit is refundable after completion of lease period (without any interest) subject to adjustment of dues / damages.

(b) In respect of Licenses:

- (i) In case of allotment of land on 11 months licence basis, non-interest bearing security deposit equivalent to 3 (three) month's licence fees (basic licence fee for land) plus 15% Administrative Deposit shall be recovered.

- (ii) In case licensee chooses to pay the total licence fee towards the initially granted licence period in advance, only one month's licence fee (basic licence fee for land) plus 15% Administrative Deposit is to be deposited as non-interest bearing Security Deposit.
- (iii) The Security Deposit is refundable after completion of license period (without any interest) subject to adjustment of dues of damages.

3. Damages for Encroachment:

Without prejudice to other appropriate action being taken, damages at **3 (Three) times** the rate of rent/licence fee as per prevailing Schedule of Rent (SoR), will be recovered for encroachment of KoPT's land / building for the first month of encroachment. For the next two months of encroachment, the damages shall be recovered at **5(Five) times** the respective zonal rate of rent/licence fee as per prevailing Schedule of Rent (SoR) and thereafter if the encroachment continues, the damages shall be recovered at **10(Ten) times** the respective zonal rate of rent / licence fee as per prevailing Schedule of Rent (SoR) for the encroached area.

4. Compensation:

In the event of expiration / termination / determination of lease/licence and despite receiving the notice thereof or forfeiture of lease / licence on account of change of user, assignment, etc, if the lessee / licensee continues to occupy the premises unauthorizedly, the lessee or the licensee shall be liable to pay compensation for wrongful use and occupation of the premises at **three (3) times** the annual lease rent/licence fee based on the latest SoR, till the vacant possession is obtained by the Port This provision will be invoked irrespective of whether the same is contained in the Lease Deed / License Agreement/Concession Agreement or not. In case of land allotted on upfront basis, the equivalent annual rent would be calculated on pro-rata basis.

5. Payment of Rent/Licence fee etc.

- i. In case of future lease of land / building on annual lease rent basis, the annual rent will be paid by the lessees in advance.
- ii. The rent / licence fee, whether demanded or not, shall be paid by the licencees / lessees on or before the 15th day of each month succeeding that for which the rent / license fee etc. is due.
- iii. In case of way leave permission, the way leave permission fees, whether demanded or not, shall be paid by the concerned party on or before 15th day of the calendar year succeeding that for which permission fee etc, is due.
- iv. Any other dues shall be paid by the lessee/licensee within fifteen days from the issue of payment notice.

6. Penal Interest:

Simple Interest @12.00% per annum on the outstanding rent, Licence fee, compensation / occupational charges / water charges and other demands (as to be indicated in bill / invoice / demand notice) will be recovered from the due date, if the same is not paid within one month of the due date. The aforesaid rate of interest would be applicable for:

- a) All future leases, licenses and way leave and other permissions
- b) All cases of existing and future occupations under compensation/ occupation charges.
 - i. In cases of restoration of leases/licenses (earlier determined / terminated), where issuance of Bill/Invoice/Demand Notice were discontinued, the

lessee/licensee will be liable to pay rent/license fee etc along with applicable interest considering 15th day of each month as due date for payment for the preceding month for the restored period of lease/license.

- ii. The 'due date' for the purpose of levy of interest shall be the date as mentioned in the bill / invoice / Demand Notice concerned.

7. Applicability of Land Policy Guidelines:

In case there is any discrepancy / conflict between the above mentioned provisions with the Land Policy Guidelines prevailing at any point of time during the validity of this Schedule, the provision of Land Policy Guidelines will prevail.

**SUMMARY OF ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE
AUTHORITY.**

F. No. TAMP/10/2018-KOPT	Proposal from Kolkata Port Trust (KOPT) for revision of Schedule of Rent for KOPT's land at Haldia Dock Complex – II.
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A joint hearing on the case in reference was held on 22 March 2018 at the KOPT premises in Kolkata. At the joint hearing, the KOPT has made the following submissions:

- (i). Land at HDC-II of 162.84 acres is abutting the river Hooghly and is for development of dock and dock related facilities including jetties, terminals, storage facilities/ tankages, allied facilities for cargo evacuation etc.
- (ii). Lease rent was fixed by TAMP in 2012 at ₹.1229/- per 100 sq.m. With an annual escalation of 2%, the current lease rental is ₹. 1356.91 per 100 sq.m.
- (iii). Initial validity has expired on 13.4.2017. The validity has been extended by TAMP till 31.3.2018.
- (iv). KOPT engaged a Valuer for market valuation of HDC-II lands, as per Land Policy Guidelines.
- (v). Based on the market value of land as assessed by Valuer, the lease rental has been proposed at ₹.1417/- per 100 sq.m. This rate is 4.4% higher than the current escalated rate of ₹.1356.91 per 100 sq.m.
- (vi). The proposed rentals has been recommended by the LAC and approved by the Board of KOPT.

Item No. A/9/HDC/ADMN/3/12/2021

(Part -I)

Sub : Constitution of the Committee in connection with revision of Schedule of Rent for land & buildings of SMPK at Haldia along with conditionalities thereof for Haldia Dock Complex, SMPK, under provisions of the Major Port Authorities Act, 2021.

1. BACKGROUND:-

- 1.1 Tariff Authority for Major Ports (TAMP) vide Notification bearing No. TAMP/62/2016-KoPT dated 29.03.2017 published in Gazette of India Extraordinary (Part-III, Section-4) on 31.05.2017 vide Gazette No.224 notified the Schedule of Rent for land & buildings of SMPK at Haldia (copy at Annex-I)(Pages 206-209). The SoR was valid for a period of 05 years i.e. upto 07.04.2021.

Further, considering that SMPK was in the process of submitting its proposal before TAMP as per the then prevailing norms, in terms of proviso under the Major Port Trust Act 1963, TAMP vide Notification bearing No. TAMP/62/2016-KoPT dated 11.10.2021 published in Gazette of India Extraordinary (Part-III, Section-4) on 08.10.2021 vide Gazette No.438 has extended validity of the existing SoR for land & buildings at KDS & HDC of SMPK from 07.04.2021 to

31.12.2021 or till the effective date of implementation of revised SoR (copy at Annex-II)(Pages 210 - 212).

- 1.2 The Major Port Trust Act 1963 has since been repealed and replaced by The Major Port Authorities Act, 2021 which has come into effect from 18th February, 2021.
- 1.3 As per Section-27 Sub-Section-1(b) of The Major Port Authorities Act, 2021 (Extract enclosed at Annex-III)(Pages 213 - 214) the Board of each Major Port Authority or the committee or the committees constituted in this behalf by the Board in accordance with Section-14, may, frame Scale of Rates at which, and the statement of conditions under which, the access to and usage of the port assets may be allowed by the Board.
- 1.4 The Major Port Authorities (Fixation & Implementation of Scale of Rates, Fees and Conditions) Rules, 2021 notified vide GSR No. 824(E) dated 22.11.2021 prescribes the Rules with respect to framing of the SoR and conditionalities thereof (copy at Annex-IV)(Pages 215 - 218).
- 1.5 Section-4 of The Major Port Authorities (fixation & implementation of Scale of Rates, Fees and Conditions) Rules, 2021 notified vide GSR No. 824(E) dated 22.11.2021 stipulates as follows:-

Power of Board to constitute committee for determination of Scale of Rats, Fees and Conditions:

- i) The Board may constitute committee for the purpose of determining the scale of rates, fees and conditions under Rule 3.
- ii) Each committee constituted by the Board under sub-Rule (1) shall consist of the following members namely:-
 - a) One member of the Board, who shall be the Chairperson of the committee;
 - b) Finance head in the major port; and
 - c) Not less than two and not exceeding four senior officials of the major port not below the rank of Head of Department in the major port;
- iii) Each committee constituted by the Board under sub-Rule (1) shall have a tenure for three years from the date on which it is constituted.

Provided that the Board may, at any time, replace any member of the committee by another qualified person on account of reasons pertaining to the death, sickness, injury, disability or retirement of such member or for any other reason as the Board may deem fit and proper.

- iv) The committee constituted under sub-Rule(1) shall meet at such time and at such places, and shall observe such regulations in regard to the transaction of business at its meetings including the quorum as may be specified by the Board.
- v) The Board may allow the committee constituted under sub-Rule(1) to consult such experts, processionals or other officers of the major port (not below the rank of Head of Department) for determination of the scale of rates and conditions under rule 3, as the Board may specify by order in writing along with such conditions as it may deem fit and proper.

1.6 In order to comply with the provisions of the said Act and process the matter regarding revision of the SoR, a Committee is required to be constituted under Section-4 of the said Rules along with the Regulations of Transaction of Business at the meetings of the Committee as well as details regarding consultation of experts/ professionals etc. by the Committee.

2. PROPOSAL :-

2.1 In terms of Section-4 (2) of The Major Port Authorities (Fixation & Implementation of Scale of Rates, Fees and Conditions) Rules, 2021, the following committee is proposed

to be constituted for determination of the SoR and conditionalities thereof for Haldia Dock Complex, SMPK :-

- i) Dy. Chairman, Haldia Dock Complex : Chairperson of the Committee
- ii) General Manager(Finance), HDC, SMPK: Member
- iii) General Manager(Traffic), HDC, SMPK : Member
- iv) General Manager(Engg.), HDC, SMPK : Member
- v) General Manager(M&S), HDC, SMPK : Member

2.2 In terms of Section-4 (4 & 5) of The Major Port Authorities (Fixation & Implementation of Scale of Rates, Fees and Conditions) Rules, 2021, the broad Regulations of Transaction of Business at the meetings of the Committee as well as details regarding consultation of experts/ professionals etc. by the Committee, have been framed as at (Annex-V)(Page-219) and placed for consideration and approval of Board.

3. JUSTIFICATION:-

3.1 Already given under para-1.

4. DECISION REQUIRED:-

Approval to the constitution of the Committee as proposed at para-2.1 of this proposal and approval to the broad Regulations of Transaction of Business at the meetings of the

Committee as well as details regarding consultation of experts/ professionals etc. by the Committee, as proposed at para-2.2 of this proposal.

The proposal was explained to the Trustees.

Secretary (I/C) stated that since the new Board as per MPA Act is yet to be constituted, the decision to be taken in the instant Agenda might be required to be ratified by the new Board. He further added that a similar Committee for KDS may also be constituted.

Chairman stated that the Committees might explore whether the license fee etc. for Customs bound land / structure would henceforth be brought under Scale of Rates since, such fees are akin to cargo-related charges.

After discussion, Trustees decided to constitute two different Committees for KDS and HDC where the said Committees would follow the same principles while revising the Schedule of Rent. Trustees also observed that the entire matter maybe placed before the new Board for ratification.

Resolution No. R/476/HDC/ADMN/3/12/2021 : Resolved, after discussion, to constitute the following Committees for determination of SoR and conditionalities thereof for KDS and HDC respectively :-

a) For HDC

Dy. Chairman, HDC Chairperson of the Committee
GM(Finance), HDC Member of the Committee
GM(Traffic), HDC Member of the Committee
GM (Engineering), HDC Member of the Committee
GM (M&S), HDC Member of the Committee

b) For KDS

Dy. Chairman, KDS Chairperson of the Committee
FA & CAO, KDS Member of the Committee
Traffic Manager, KDS Member of the Committee
HoD of Estate Division, KDS Member of the Committee
Chief Engineer, KDS Member of the Committee

Trustees further resolved that the aforesaid two Committees would revise the SoR basing on the same principles and the entire matter may be placed before the new Board for ratification.

Annex-III

Item No. A/05/HDC/ADMN/3/04/2022
(Part – I)

Sub: Proposal regarding extension of validity of the existing
Schedule of Rent for Land of Syama Prasad Mookerjee
Port, Kolkata at Haldia Dock-II.

1. BACKGROUND:

1.1 The existing SoR for Land of Syama Prasad Mookerjee Port, Kolkata (SMPK) at Haldia Dock-II (HD-II) was last approved by TAMP vide order No. TAMP/10/2018-KoPT dated 08.06.2018 and notified in the Gazette of India on 03.07.2017 vide Gazette No.249. The SoR came into retrospective effect from 13.04.2017 and same was valid for a period of 5 years i.e. up to 12.04.2022 (Extract at Annex-I) (Pages 139 – 156).

1.2 The Major Port Trust Act 1963 has since been repealed and replaced by the Major Port Authorities Act, 2021 provisions of which has come into force from 3rd November, 2021 (Annex-II) (Pages 157 – 182).

Also, the Major Port Authorities (Fixation & Implementation of Scale of Rates, Fees and Conditions) Rules, 2021 notified vide GSR No. 824(E) dated 22.11.2021 prescribes the Rules with respect to framing of the SoR and conditionalities thereof.

1.3 As per Section-27 Sub-Section-1(b) of The Major Port Authorities Act, 2021, the Board of each Major Port Authority or

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the Committee or the committees constituted in this behalf by the Board in accordance with Section-14, may, frame Scale of Rates at which, and the statement of conditions under which, the access to and usage of the port assets may be allowed by the Board.

1.4 In terms of the above, the Board vide Reso. No. R/476/HDC/Admn/3/12/2021 dated 23.12.2021, has constituted Committees for both KDS & HDC for determination of SoR and conditionalities thereof. The Board has also resolved that the aforesaid two Committees would revise the SoR basing on the same principles and the entire matter is may be placed before the Board for ratification.

1.5 Haldia Dock Complex (HDC), SMPK has engaged M/s Vestian Global Workplace Service Pvt. Ltd. for market valuation and determination of revised Schedule of Rent and charges of SMPK land at Haldia Dock-II alongwith conditionalities thereof. The Valuer engaged is expected to submit Valuation Report in the 1st week of May' 2022. The Valuation Report is to be considered by the committee constituted for the purpose vide Reso. dated 23.12.2021 & after taking feedback from the concerned stakeholders as per provisions of the relevant Rules, the SoR so finalized is to be placed before the Board for sanction/ ratification.

1.6 Expiry of validity of the prevailing SoR is on 12.04.2022. Considering that finalization of the revised SoR for HD-II will

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OF THE BOARD MEMBERS.....3rd
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take some more time and in order to avoid a vacuum in the levy of the SoR for land of SMPK at HD-II beyond 12.04.2022, there is requirement for extension of validity of the SoR for further period after 12.04.2022.

2. **PROPOSAL:**

- 2.1 Extension of validity of existing SoR for land of SMPK at HD-II for a period of six months i.e. from 13.04.2022 to 12.10.2022 or till the effective date of implementation of the revised SoR to be fixed by the Board, whichever is earlier. On such extension, the rates of existing SoR will be enhanced w.e.f. 13.04.2022 by 2% as per provision of existing SoR and said enhanced rate will be the applicable SoR rate w.e.f. 13.04.2022.

3. **JUSTIFICATION:**

Already detailed in the Background notes under para-1.

4. **DECISION:**

Approval to the proposal as at para 2.1.

The proposal was explained to the Members.

Chairman observed that there should not be separate Schedule of Rent for land of SMPK at Haldia Dock-II to obviate administrative inconvenience and the same should ultimately

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be merged with the main Schedule of Rent for SMPK land and structure.

The Members, after discussion, decided to approve the proposal and the aforesaid suggestion of Chairman.

Resolution No. R/78/HDC/ADMN/3/04/2022 : Members, after discussion, resolved to extend validity of the existing SoR for land of SMPK at Haldia Dock-II for a period of six months with effect from 13.04.2022 or till the effective date of implementation of the revised SoR to be framed by the Board, whichever is earlier. Members also resolved that after extension, the rates of existing SoR will be enhanced by 2% w.e.f. 13.04.2022, as per provision of existing SoR.

It was further resolved that SoR for land of SMPK at Haldia Dock-II should ultimately be merged with the main Schedule of Rent for SMPK land and structure.

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OF THE BOARD MEMBERS.....3rd
MEETING HELD ON.....2.8.APR.2022

Annex-IV

Our Ref: VES-ICS-12.04-Haldia Dock II-Report

2nd May 2022

Syama Prasad Mookerjee Port
Administration Division
Haldia Dock Complex
Jawahar Tower Annexe
P.O. Haldia Township, Dist- Midnapore (E)
Pin-721 607, West Bengal

Kind Attention: Shri. Chandan Chatterjee

Dear Sir

Re: Market Valuation & Determination of Monthly & Annual Rent of Syama Prasad Mookerjee Port, Kolkata land located at Haldia Dock-II, Dist-Purba Medinipore (the 'Subject Property')

In accordance with our terms of engagement dated 6th April 2022, we attach our report setting out our opinion of the value of the "Property".

We confirm that we have carried out an inspection of the Property, made relevant enquiries and obtained such further information as we consider necessary as to allow us to provide you with our opinion of value, for internal decision-making purpose.

Please note this report is for your sole use and for the purpose indicated only and no liability to any third party can be accepted for the whole or any part of the contents of the document. Neither the whole nor any part of this valuation report nor any reference thereto may not be included in any published documents, circular or statement, nor published in any way whatsoever except with the prior written approval of Vestian Global Workplace Services Pvt Ltd as to the form and context in which it may appear.

Should you have any queries on the content of this report, please contact Saikat De, at Saikat@vestian.in, who would be pleased to assist. Yours faithfully,

For and on behalf of
Vestian Global Workplace Services Pvt Ltd

Pradip Rajak
B. Com
Assistant Manager
Investment & Consultancy
Services

Saikat De, MRICS
B.Arch, M.Tech, MBA-Finance
Director
Investment & Consultancy
Services

VALUATION REPORT

Market Valuation & Determination of Monthly & Annual Rent of Syama Prasad Mookerjee Port,
Kolkata land located at Haldia Dock-II, Dist-Purba Medinipore
April 2022

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1 EXECUTIVE SUMMARY

Property Address	<i>Haldia Dock II Land at JL No. 118, Shaluk Khali, JL No. 117, Rupnarayan Chak, District-Purba Medinipore, West Bengal</i>
Description	<i>The subject property consists of a land parcel spread across two mouzas namely Shaluk Khali, Rupnarayan Chak. It is located nearly 5.2 km away from Durga Chak Railway Station and 9 km away from Basulya Sutahata. The land parcel is irregular in shape and currently it is vacant.</i>
Site Area	<i>162.84 Acres</i>
Geo-Position	<i>22°06'21.6"N 88°11'10.9"E</i>
Interest Valued	<i>Leasehold</i>
Proposed Use	<i>Development of Dock and Dock related facilities including jetties, terminals, storage facilities, allied facilities of cargo evacuation etc.</i>
Purpose of Valuation	<i>Internal Decision-Making Purpose</i>
Valuation Approach	<i>Direct Sales Comparison Approach</i>
Date of Inspection	<i>12th April 2022</i>
Valuation Date	<i>12th April 2022</i>
Valuation and Other information	<p><u>Estimated Market Value:</u></p> <p>INR 208,44,00,000</p> <p>(Indian Rupee Two Hundred Eight Crore Forty-Four Lakhs Only)</p> <p><u>Estimated Monthly Rent (Per 100 Sq.mt Per Month)</u></p> <p>INR 1,581</p> <p>(Indian Rupee One Thousand Five Hundred Eighty-One Only)</p>

2 DETAILS

2.1 Terms of Engagement

As agreed in our terms of engagement dated 6th April 2022, we have conducted an inspection and provided our opinion of the Market Value of the Property (as defined hereinafter) in its existing state, for internal decision-making purpose.

2.2 Subject Property

The subject property under valuation is located at Shaluk Khali and Rupnarayan Chak Mouza

Property Details	
Address	Haldia Dock II Land at JL No. 118, Shaluk Khali, JL No. 117, Rupnarayan Chak, District-Purba Medinipore, West Bengal
Land Area	162.84 Acres
Access Road	Metal Road connecting CESC Haldia Thermal Power Plant
Landmark	CESC Haldia Thermal Power Plant
Current Use	Vacant
Proposed Usage	Dock and Dock related industrial and sector specific allied services
Neighbourhood Description	The immediate surroundings of the subject site are primarily comprising of vacant land, agricultural field, water bodies, scattered residential clusters, industrial premises and roadside retail activities.

Source: Client & Vestian Global

Map 2.1. Property Location



Source: Wikimapia, Vestian Global

2.3 Purpose of Valuation

The purpose of this valuation exercise is to estimate the market value of the subject property for internal decision-making purpose and hence cannot be used for any other purpose.

It is expressly understood that this report is issued "without prejudice" in any manner, whatsoever.

2.4 Valuation Date

The valuation date is 12th April 2022 based upon our site inspection on 12th April 2022.

Due to possible changes in market forces and circumstances in relation to the Property, the report can only be regarded as representing our opinion of the value for the Subject Property as on the date of valuation

2.5 Basis of Valuation

Our valuation is provided on the basis of Market Value, which we define as "the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's-length transaction after proper marketing where the parties had each acted knowledgeably, prudently and without compulsion".

2.6 Valuation Standards Adopted

The valuation report has been carried out in accordance with the Royal Institution of Chartered Surveyors (RICS) Global and India valuation professional standards incorporating the International Valuation Standard Council (IVSC) valuation standards.

2.7 The Valuer

The valuation report has been prepared by Pradip Rajak. Pradip holds a Bachelor's degree in Commerce and has over 10 years' experience in varied valuation assignments across various real estate asset classes across East India. He is suitably qualified to carry out the valuation and have experience in the valuation of properties of this magnitude and nature.

The valuation report has been reviewed by Saikat De, MRICS. Saikat De (Director) holds a Masters in Technology from CEPT, Ahmedabad and a Bachelors degree in Architecture from Bengal Engineering College, Shibpur; he has over 15 years of work experience in carrying out real estate valuations studies. He is suitably qualified to carry out the valuation and has experience in the valuation of properties of this magnitude and nature.

They have accepted instructions to value the subject property only for the Client. Neither the valuer nor Vestian Global Workplace Services Pvt. Ltd. has any pecuniary interest or conflict of interest that could reasonably be regarded as being capable of affecting their ability to give an unbiased opinion of the value of the property.

2.8 Inspection and Investigations

Inspection of the subject property adequate for the purpose of this valuation was carried out by Pradip Rajak, on 12th April 2022.

We confirm that we have made relevant enquiries and obtained such information as we consider necessary to conduct the valuation. All investigations have been conducted independently and without influence from a third party in any way. The information provided in this report has been obtained from the Client, its associates, primary and secondary research, other public information and VG research database.

Information provided by client's representative.

A checklist of information required for this valuation assignment was requested to the client's representative, before & after the site inspection.

Of these, the client & its representative provided us with the following information only:

- Address and area statement of the subject property

Information related to subject site/property has been provided by client/client representative.

Due to COVID-19 pandemic and arising situation related to this we have maintained strict social distancing norms as per Government of India directives during site inspection. Physical interaction with the owner/representative has been minimal during site inspection.

2.9 Caveats and Assumptions

This report is subject to and includes our Standard Caveats and Assumptions as set out in the appendices at the end of this report, as well as our agreed terms of our engagement.

Please note the report is for your sole use and for the purpose indicated only and no liability to any third party can be accepted for the whole or any part of the contents of the document. The whole nor any part of the valuation report nor any reference thereto may not be included in any published documents, circular or statement, nor published in any way whatsoever except with the prior written approval of Vestian Global as to the form and context in which it may appear.

Vestian Global shall at all times keep all information relating to this valuation report confidential and not release it to third parties, without the written consent of the client.