

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

**TARIFF AUTHORITY FOR MAJOR PORTS**

G.No. 224

New Delhi,

31 May 2017

**NOTIFICATION**

In exercise of the powers conferred under 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 the Lands and Buildings of KOPT at Kolkata and Haldia, as in the Order appended hereto.

**(T.S. Balasubramanian)**

Member (Finance)

**Tariff Authority for Major Ports**  
**Case No. TAMP/62/2016 – KOPT**

**The Kolkata Port Trust**

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**Applicant**

**QUORUM**

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

**ORDER**

(Passed on this 29<sup>th</sup> day of March 2017)

This case relates to the proposal received from Kolkata Port Trust (KOPT) for revision of Schedule of Rent (SOR) for the Lands and Buildings of KOPT at Kolkata and Haldia.

2. The existing rate structure for Land and Buildings of KOPT at Kolkata and Haldia was approved by this Authority vide Order No.TAMP/7/2010-KOPT dated 19 January 2011. This Order was notified in the Gazette of India on 8 March 2011 vide Gazette No 47. The SOR came into effect from 7 April 2011 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 6 April 2016.

3.1. Just few days prior to the expiry of the validity of the Rent Schedule, the KOPT vide its letter dated 17 March 2016 had stated that it had engaged M/s Colliers International for valuation of land/ structure for revision of Rent Schedule and that the Valuer is expected to submit the draft Valuation report by 30 April 2016. In view of this time lag and further time required for analyzing the report etc., the KOPT had requested this Authority to extend the validity of the Rent Schedule for the lands and buildings of KDS and HDC for a period of 6 months, with effect from 7 April 2016.

3.2. This Authority had considered the request made by KOPT and had, vide its Order No. TAMP/7/2010-KOPT dated 30 March 2016, extended the validity of the Rent Schedule for the lands and buildings of KDS and HDC for a period of 6 months i.e. upto 6 October 2016. This Order was notified in the Gazette of India on 21 April 2016 vide Gazette No 139. Vide the same Order, the KOPT was also directed to file its proposal for revision of Rent Schedule, latest by 30 June 2016, following the amended Land Policy Guidelines, 2014, issued by the Government of India.

4.1. In this backdrop, the KOPT vide its letter no. Lnd 464/F/RFC/XVII/Addl/16/2287 dated 29 September 2016 has filed its proposal for revision of SOR for the Lands and Buildings of KOPT at Kolkata and Haldia.

4.2. On being reminded, the KOPT vide its letter no. Lnd.464/F/RFC/XVII/Addl/16/2570 dated 28 October 2016 has furnished the proposed Rent Schedule along with conditionalities for KDS. The KOPT also requested to read the Note (1) at Page no. 1 of Annex – IV, as follows rectifying a minor typographical error:

*“If land is taken in a zone other than commercial zone for the purposes as mentioned (f)-(i), (ii) & (iii), 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charges extra over the rent for the respective zone as per approved Rent Schedule.”*

5.1. The salient points of the Valuer's Valuation report for lands at Kolkata Dock system (KDS) and Haldia Dock Complex (HDC), as detailed in the Land Allotment Committee (LAC) Report are given below:

- (i). **For KDS**
  - (a). Valuation of Land:

- (i). The Land parcels of KDS have been divided in several Clusters depending on their geographical location and relevant parameters. Such cluster have been sub-divided into 1 to 4 value areas depending on the infrastructure available which would affect the value of Land.
- (ii). State Government Ready Reckoner is not available in West Bengal.
- (iii).
  - (a). The transaction of neighbouring land parcels referred to in the valuation report, were mostly for free-hold, developed land for non-industrial purpose.
  - (b). The rates of transactions so obtained have been enhanced by 2% p.a. to arrive at the current value, wherever required.
  - (c). As the individual value areas have several transactions of different magnitudes, average rate of actual relevant transactions within last three years in the vicinity of such areas, obtained from the Sub-registry offices and also from Colliers International own database, have been used to derive the market rate to even out the inconsistencies in individual transaction.
- (iv). Land parcels of KDS are mostly allotted on lease for extension/ continuation of existing industry and also for storage and warehousing-related purposes and other allied activities.
- (v). The land parcels of KDS is subject to various restrictive covenants (like prohibition on sub-leasing, requirement of obtaining prior sanction of KOPT for construction, transfer of lease, mortgage, etc.), as mentioned in Land Policy Guidelines.
- (vii). The actual site conditions in Port areas are not comparable with the adjacent areas or other parts of the city. The roads and drainage in Dock and Howrah areas are not maintained by civic authorities though public thoroughfares run through such areas. There is hardly any street illumination in Dock area which has affected business of several plots particularly in Empty Containers yards. Respective vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry have affected revenue potentials of such plots adversely. There has been recurrence of accidents, incidents of water-logging in Port areas. The debate between port authorities and civic authorities regarding the responsibilities of maintaining the infrastructure in port areas is still continuing.
- (vii). While arriving at a base market rate for a specific value area, following factors have been applied, to remove the inconsistencies between value areas and comparables:
  - (a). **Listing Discount:** This factor refers to the discounting for negotiation/ bargaining between the prospective buyer and prospective seller, on the listed/ quoted price of the seller from the data base of the valuer, since the actual transaction cost is not known. The factor is 5%, wherever applicable.

- (b). **Time Adjustment:** This factor has been applied on the transaction value obtained from SRO, where actual transaction took place more than a year ago, in order to update the same on the date of valuation. An annual escalation of 2%, in line with the provisions of the existing SOR has been applied.
  - (c). **Land Use:** It refers the permissible use of the site as per Land Use Plan of KOPT which is based on LUDCP of KHDA, except certain minor modification. In the port area, all permissible usage as per LUDCP except residential purpose, are generally allowed. As the land price depends on the usage, the land price having industrial usage only, remains on much lower side in comparison to the land having residential or commercial or mixed usage. Discount @ 25% has been allowed and this would be uniform for all areas under KDS.
  - (d). **Infrastructure Adjustment:** As already detailed above, the actual site conditions in port areas are not comparable with the adjacent areas or other parts of the city. Comparatively poor road and drainage condition, absence of street illumination in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in while comparing with subject land parcels, by using appropriate adjustment factors (varying from +10% to -25%).
  - (e). **Ownership:** This factor refers the type of ownership attached with the land. The subject sites within KDS generally have leasehold right for 30 years. Leasehold land parcels are priced lower than the freehold ones. Transaction of leasehold property is very rare. In and around Kolkata, the factor varies between 10 -20% depending on location. A discount factor of 15% is considered.
- (viii). The valuer has recommended that Annual Yield to be 6% of the market valuation considering the present trend in Kolkata region. The proposed Annual escalation has been recommended as 2.5% on the basis of market survey. Both are in conformity with the Land Policy Guidelines.
  - (ix). Rate of rent per 100 s.m. per year under different rental zones has been calculated @ 6% of the respective valuation.
  - (x). Accepted tender rates have been considered with appropriate updation @ 2 % per annum, wherever applicable. Certain tender have been found to be very high and not in consistence with the general rate pattern of a particular geographical zone. Some of such rates have been obtained through well contested auctions between certain desperate bidders. The element of competition in auction makes them unsafe guides for determining the market value. Valuer is of the view that certain contested auction rates may not be considered while formulating a general rate for the entire zone (e.g. tender derived rate in Zone No. 1).
  - (xi). There have been certain in-built anomalies in the existing rent schedule of KOPT in respect of certain zones. In recent past, KOPT had to recommend reduction of TAMP approved rate in

respect of a particular zone (Harimohan Ghosh Road) retrospectively from 2011. In Dhohitalao zone, KOPT is in process of re-assessment of 2011 notified rate. In Howrah area, due to certain external factors, rates of private land have shown unprecedented increase which is not in conformity with the general market trend. As the Rent Schedule will have impact on several existing occupants, it has been recommended that the hike in rate may be capped at 100% of the existing rates (i.e. of updated SOR rate as of 7.04.2016). The recommended values have been moderated accordingly.

- (xii). The size of land area affects the value of plots. So far, KOPT has been following the principle of belting [i.e. higher rate of rent for first 50 m from the main road and lower rate of rent beyond 50 m from the main road] which, in turn, allowed lower average unit rate for larger plots. Valuer is also in agreement with such principle. Accordingly, it is recommended that the derived rates would be applicable for 1<sup>st</sup> belt only. Second belt would be charged uniformly at 80% of the 1<sup>st</sup> belt rates. However, the belting should be uniform and applicable for all zones where it has been allowed in the schedule rent of 2011. In other words, the areas within 1<sup>st</sup> 50 mtrs of road will be charged at belt rate for all such zones and areas beyond such 1<sup>st</sup> belt, would be charged 2<sup>nd</sup> belt which will be 80% of 1<sup>st</sup> belt rate.
- (xiii). The valuer has considered individual road access width and appropriate discount/ premium has been applied on the basis of positional advantage/ disadvantage. It is an obvious fact that frontage or abutment of two roads adds value to residential and commercial complexes, as there are always preferential use of certain direction for sunlight and airflow. For storage purpose, such preferential use is hardly there. For industrial, storage and warehousing uses, additional entry and exit points often lead to reduced area utilization within such plots. In many existing leases it has been noticed that the additional road has never been utilized at all. It has also been noted that levy of additional rental for plots abutting more than one road has been unique to KDS land and there has been no such provision for KDS structures. In KDS, conscious efforts have been made in the last rent schedule proposal to reduce the weightage of such additional roads from 20% or 15% to 15% uniformly. In order to bring uniformity, valuer is of the opinion that no separate escalation for abutting additional road requires to be applied.
- (xiv). Valuer has recommended to retain the clause for levying 15% extra for railway plots, as such plots are beneficial for dispersal /aggregation of cargo/ materials which add value to the intended purpose for such plots.
- (xv). The impact of Floor Area Ratio (FAR) in valuation exercise has not been considered as the basic parameter influencing FAR i.e. the means of access width, has been duly factored in while computing the rates of sub zones within clusters. Moreover, for the permitted uses in port land like, CFS and/ and or warehousing, multi storied construction is not often favoured.
- (xvi). Following the principles narrated above, there was anomaly in the proposed rate structure in respect of Sonapore Road which in spite of being Branch Road, fetched higher rate in tender than the main road i.e. Hyde road and Hyde Road Extension. In view of this, it has been recommended to cap the rate for Sonapore Road

to the average of rates recommended for Hyde Road and Hyde Road Extension, as the Sonapore Road branches out from the crossing of the aforesaid roads.

(xvii). As basic valuation has been done considering the end use as industrial use only and since certain commercial and other uses are permitted in port land, the base rates are required to be enhanced for such non-industrial uses. Valuer has recommended that, instead of the extant provision of charging 250% extra only in cases of shops, refreshment stalls, weigh bridges and petrol pumps, KOPT may consider charging 35% extra (valuer has recommended 50% extra) on base rate for lease/licence/compensation for all general non-industrial use, except the following, in Order to bring uniformity:

- Govt. and govt aided educational Institutions and Research organizations
- Transport Facilities and relate uses
- Govt. and Charitable Hospitals
- C.F.S, general storage, warehousing and parking (vehicle and container) facilities
- Office space for its own use of lessee only, on maximum 10% of the allotted land.
- All public utility projects, Govt. organizations/ department for the purpose of carrying out sovereign/ security/statutory functions,
- All way leave permissions

[As per definition given in KOPT's Land use Plan, "Industrial building" that is so to say any building or structure or part thereof used principally for fabrication, assembly and or processing of goods and materials of different kinds. Such building shall include laboratories, power plants, smoke houses, refineries, gas plants, mills, dairies, factories and workshops:]

(b). Valuation of structures:

- (i). Valuation of structures has been done by estimating the depreciated replacement cost method. The depreciated replacement cost of the building is estimated by ascertaining its replacement cost with the same utility and deducting accrued depreciation on the replacement cost.
- (ii). Prevailing Plinth Area Rates (PAR) of CPWD have been considered to arrive at the Current Replacement Cost (CRC) of the buildings. The Re-valued value After Depreciation (RVAD) of the buildings have been derived after due consideration of its depreciation. Since CPWD rates are based on the price levels of the year 2012, the same has been appropriately updated.
- (iii). Value of land on which the building is situated is considered with further addition for circulation area @ 10% of the area of building. RVAD of the building is then added to this computed cost of land to arrive at the market value for computation of annual rent of buildings and structures. The Annual Rent has been calculated @ 6% of the market value.
- (iv). For multi-storeyed warehouses, the rent of the upper floors have been reduced, since the upper floors are expected not to attract

as much tenants as the ground floor. The entire yield of 6% is distributed between the floors, so that –

- (a). the rent of the first floor is 70% of the rent of the ground floor and
- (b). the rent of the second floor and above is 50% of the rent of the ground floor.
- (v). As most of the structures are allotted on license basis, the license rates obtained through tenders after 2011 have been considered and duly updated with annual escalation of 2%, wherever required.
- (vi). It has been seen that in tender for few structures, abnormally high rates have been obtained in comparison to the valuer's derived rate as well as updated Schedule of Rent. As the Rent Schedule will have impact on several existing occupants and considering the fact that use of structures is limited compared to use of land as space is a constraint here limited the potential return, it has been recommended that the hike in rate of rent of buildings/ structures may be capped at 75% of the existing rates (i.e. updated SOR rate). The recommended values have been moderated accordingly.
- (c). The rate of simple interest on unpaid outstanding estate dues may be kept unchanged at 14.25% per annum, in view of the present bank rate.
- (d). The rates of way leave license fee have been rationalized for simplicity of calculation on geographical zone basis taking into consideration the highest rates of the zones. The way leave license fees will be charged on upfront basis henceforth for new way leave permissions.
- (ii). **For HDC**

The methodology adopted by the valuer for valuation of HDC is identical in broader sense, except the following:

- (i). The yield for structure at HDC has been considered to be 9% per annum of the market value.
- (ii). The Escalation rate for the proposed SOR has been considered as 2.0% per annum.

5.2. Accordingly, the KOPT has sought approval for the following:

**(A). Haldia Dock Complex (HDC) (page no. 168-190/c)**

**(i). For Lands:**

SI No.	Description Land	Rate of Rent/ Licence fee per 100 sq.m. per month. (in ₹.)
(a)	Residential Zone	1604.00
(b)	Industrial Zone	1080.00
(c)	(i) Dock InteriorZone (inside Custom bonded area) [bare Land]	2628.00 *
	(ii) Dock Interior Zone (inside Custom bonded area)	4086.00 *

	[hard Stand]	
(d)	Proposed Dock Interior Zone	2044.00
(e)	(i) Dock Zone [bare land ]	1459.00
	(ii) Dock Zone [hard Stand]	2917.00
(f)	(i) Commercial Zone for Offices, Banks, Workshops, Repair Shops (excluding Automobiles), cold storages etc.	2918.00
	(ii) Commercial Zone for Shops, Markets, Nursing Homes, Medical Clinics, Hotels & Restaurants (without Bar), Service Stations, Repair Shops (Automobile) Weighbridge etc.	3891.00
	(iii) Commercial Zone for Cinema House, Hotel & Restaurant (with Bar) etc.	3969.00
(g)	Kukrahati	474.00
(h)	Panskura	1206.00

\* These rates are not applicable in case of allotment on ship-to-ship basis for storage of import/export goods inside Dock Interior Zone.

NOTE : (1) If land is taken in a zone other than commercial zone for the purposes as mentioned in (f) - (i), (ii), (iii) above, 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charged extra over the land rent for the respective zone as per approved Rent Schedule.

*(The changes as proposed by KOPT vide its letter dated 28 October 2016, as brought out earlier have been incorporated in the above note.)*

(2) In the event of utilisation of land for mixed purpose i.e. office-cum-residential, the rent chargeable shall be simple average of applicable rents for the specific usage.

(ii). **For Buildings:**

SI No.	Zone, Location and other description	Rate of Rent/Licence fee per sq.m. per month. (in ₹.)
(a)	<b><u>Pucca roofed structure.</u></b>	
	(i) Residential Zone	81
	(ii) Industrial Zone	77
	(iii) Dock Interior Zone	93
	(iv) Dock Zone	93
	(v) Commercial Zone	103
(b)	<b><u>AC/CI roofed structure</u></b>	
	(i) Residential Zone	63
	(ii) Industrial Zone	62
	(iii) Dock Interior Zone	73
	(iv) Dock Zone	71
	(v) Commercial Zone	85
	(vi) Kukrahati	62
(c)	Tower Building	140
(d)	<b><u>Quarters/Dormitories</u></b>	
	(i) Dormitories (pucca roofed)	76
	(ii) "A" type quarters	92
	(iii) Modified "A" type quarters	91
	(iv) "B" type quarters	91

	(v)	Modified "B" type quarters	91
	(vi)	"C" type quarters	111
	(vii)	"D" type quarters	150
	(vii)	Officers' Hostel	93
	(ix)	Jawahar Tower	140
(e)		Market for Perishable goods	60
(f)		Retail Market	76
(g)		Shopping Centres at Durgachak	61
(h)		Shopping Centres at Chiranjibpur	61
(i)		Township Market opposite to Makhan Babur Bazar	44
(j)		Township Marketing Centre (near Helipad Ground)	62
(k)		Goonties	76

(iii). **Others:**

SI No.	Description	Rate in ₹. per day or part thereof
<b>1.</b>	<b>Permission fee :</b>	
(a)	(i) For holding function on land for area occupied upto 40 sq.m.	1000
	(ii) If the above occupation continues beyond 3 days.	1500
(b)	(i) For holding function on land for area occupied above 40 sq.m.	1500
	(ii) If the above occupation continues beyond 3 days.	2000
<b>2.</b>	The rate of rent /licence fee for water bodies/water areas.  However, existing occupations will be guided by their respective lease deed/ licence agreement.	50% of the corresponding rate of rent for the abutting land area
<b>3.</b>	Rate of licence fee for erection of hoarding on KoPT land	Rate in ₹. per calendar year or part thereof
(a)	For hoarding upto a maximum size of 10 sq.mts.	3000
(b)	For hoarding of size above 10 sq. mts.	5000
<b>4.</b>	<b>Way-leave Permission :</b>	
(i)	A way-leave permission fee will be charged for essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric lines running on single pole, etc.	₹. 2000 per calendar year or part thereof
(ii)	For laying pipelines carrying Crude Oil, POL Products and other Liquid Cargo over or under the ground, way-leave licence fee will be charged 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. Incase 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-	---

	<p>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.</p> <p>For allowing overhead conveyors and high voltage transmission lines and towers, way-leave permission fee will be charged on the basis of the scheduled rent for the area coming in the alignment of the structure.</p> <p>Permission fee for construction/installation of microwave tower, pole (excluding electric/telephone line), antenna etc, on land/ building will be charged</p>	<p>---</p> <p>@ ₹.30,000/- per 100 sqm per month, subject to minimum payment of ₹. 15,000/- per location per month or part thereof.</p>
5.	Licence fee for Durgachak Mini Market for plots measuring about 13.936 Sq.M each	₹. 700.00 per month per plot
6.	Recovery of Hawker charges	₹. 2/- per day irrespective of area
	i) For bare chatal	
	ii) For hardstand chatal	₹. 2/- per day per sq. mtr.
7.	<b>For licensing of open / covered space inside Dock Interior Zone for storage of import / export goods, the licence fee will be charged at the following rates per 100 Sq.M. per Month.</b>	
(a)	<b>Open space :</b>	
	(i) Bare land	4225.00
	(ii) Hardstand land	6570.00
(b)	<b>Covered space :</b>	
	(i) Pucca roofed	13917.00
	(ii) AC/CI roofed	10437.00
8.	<p><b>(i) Processing Fee:</b>  Processing fee (excluding applicable taxes) for scrutiny of proposals of new construction and addition/alteration of existing approved structures (except way leave related cases) on leasehold premises only.  However, the following structures will be exempted from payment of the said Processing fee:-  (a) Septic Tank  (b) Water reservoir  (c) Cycle Stand  (d) Pump room  (e) Generator room  (f) Bus stand  (g) School</p>	@ ₹.5000/- per proposal
9.	<b>Lease Deed form and preparation cost</b>	₹. 5000/- per lease
10.	<p><b>Re-survey Fee :</b>  (i) Resurvey fee for the first acre or part thereof to be recovered from the lessee requiring re-demarcation of the plot after handing over possession of the land</p>	₹. 5000/-

	concerned. (ii) Resurvey fee for land area beyond one acre to be recovered from the lessee requiring re-demarcation of the plot after handing over possession of the land concerned	₹. 1000/- per acre or part thereof over and above 1 acre
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**(B). Kolkata Dock System (KDS) (page no. 461-475/c)**

**(i). For Lands:**

(in ₹)

Sl. No.	Location & Description of Land	Recommended Rate (1st belt) (per 100 sq.m per month)	Recommended Rate (2nd belt) (per 100 sq.m per month)
1	Circular Garden Reach Road from Satya Doctor Road to Bascule Bridge.	4859	3887
2	Circular Garden Reach Road from Bascule Bridge to Gate No. 5; N.S.D.	4859	3887
3	Circular Garden Reach Road from Gate No. 5; N.S.D. upto Gate No. 9, N.S.D. (new diversion portion) including lands on the new roads off the road.	4859	3887
4a	Garden Reach Road from Hastings Bridge to Tidal Basin	4165	NA
4b	Watgunge	4326	NA
5a	Garden Reach Road from Tidal Basin to Gate No. 3, N.S.D.	4165	3332
5b	Brace Bridge Road and BISN Jetty adjacent area	4165	NA
6	Satya Doctor Road and Gopal Doctor Road	4,135	3308
7a	Hide Road and Hide Road Extension (up to crossing of towards JJP Road) both sides and Mint Place and Roads at JJP	3,893	3115
7b	Hide Road Extn. after Crossing of JJP Road	5421	4337
8	Nimak Mahal Road and Dumayne Avenue	4407	3526
9	Goragacha Road, Incinerator Road, Transport Depot Road and the adjoining Roads except specified otherwise.	4962	3969
10	Sonapur Road.	4657	3726
11	Oil Installation Road and other roads in Paharpur area.	4126	3301
12a	Remount Road (between Diamond Harbour Road & Bhuikailash Road).	5421	4337
12b	Remount Road (between Bhuikailash Road & Coal Dock Road) and Coal Dock Road and EJC	5421	4337
13	Dock West Road	3893	3115
14	Dock Eastern Boundary Road including adjacent Roads except otherwise specified	4135	
15a	Diamond Harbour Road (Western side) from Majherhat Bridge to Seamen's House).	6277	5022

15b	Boat Canal & Diamond Harbour Road (Eastern side).	7088	
16	Taratala Road from Diamond Harbour Road to Budge Budge Road and Mint Place	5706	4565
17	Taratala Road from Budge Budge Road to Circular Garden Reach Road	5706	4565
18	Hari Mohan Ghosh Road.	3,105	
19a	Ramnagar	2,999	
19b	Suriman & Alifnagar Road.	2,585	
20	Sonai Road	3701	
21	Land within custom bound areas of KPD, NSD, G.R. Jetty for purposes other than cargo storage	4838	
22	Land within custom bound areas for cargo storage	6388	
23a	Land inside Kantapukur, Hoboken Depot, N.T Shed & R.I.M. Dock Yard.	4135	
23b	Land at Brooklyn Depot	4126	
24	Daighat	4326	
25	Chetla Road	5421	
26	Chetla Station Back Land	2175	
27	Chetla Station Yard plots	2175	
28a	Sonai	4126	
28b	Durgapur siding	5135	
28c	Coal Berth	4407	
28d	Gravel Siding	4407	
28e	Hide Shed Dump, Hoboken Road and Old Garagacha Road	3893	
28f	Dhobiatalao Container Park	5489	
<b>KOLKATA</b>			
29	Cossipore area from Gun Foundry Road to Chitpore Lift Bridge and Turner Road	6081	4865
<b>From Chitpore Lift Bridge TO Ahiritola Street</b>			
30a	From Chitpore Lift Bridge to Schalch Street (Koomartooly)	14571	
30b	From to Schalch Street (Koomartooly) to Ahiritola Street	12953	
<b>From Ahiritola Street TO Nimtollah Burning Ghat Road</b>			
31a	Strand Bank Road from Ahiritola Street to Nimtolla Burning Ghat Road	13478	
31b	Nimtollah Burning Ghat Road (North side)	13478	
31c	Strand Road from Ahiritola Street to Nimtollah Burning Ghat Road including Maharshi Debendra Road	15046	12037
<b>From Nimtolla Burning Ghat Road TO Jorabagan Cross Road</b>			
32a	Strand Road from Nimtollah Burning Ghat Road to Jorabagan Cross Road.	15046	12037
32b	Jorabagan Cross Road (North side), Cross Road Nos. 13 & 16.	12851	
32c	Strand Bank Road from Nimtollah Burning Ghat Road to Jorabagan Cross Road.	13478	
32d	Cross Road Nos. 13/1, 14, 15 & 17.	11911	
32e	Nimtollah Burning Ghat Road (South side).	12851	

<b>From Jorabagan Cross Road to Adya Sradhya Ghat Road.</b>			
33a	Strand Road from Jorabagan Cross Road to P.C. Tagore Ghat Road.	15046	12037
33b	Strand Road from P.C. Tagore Ghat Road to Adya Sradhya Ghat Road.	15046	12037
33c	Strand Bank Road from Jorabagan Cross Road to P.C. Tagore Ghat Road.	13478	
33d	Strand Bank Road from P.C. Tagore Ghat Road to Adya Sradhya Ghat Road.	13478	
33e	Adya Sradhya Ghat Road (North side).	12851	
33f	P.C. Tagore Ghat Road.	12851	
33g	Cross Road No. 8.	11911	
33h	Cross Road Nos. 9, 10 & 11.	11911	
33i	Jorabagan Cross Road (South side), Cross Road Nos. 12	12851	
33j	Pathuria Ghat Cross Road	13478	
<b>From Adya Sradhya Ghat Road TO Jagannath Ghat Road</b>			
34a	Strand Road from Adya Sradhya Ghat Road to Jagannath Ghat Road	14470	11576
34b	Strand Bank Road from Adya Sradhya Ghat Road to Jagannath Ghat Road	13478	
34c	New C.I.T Road (Cross Road No. 5)	12851	10281
34d	Adya Sradhya Ghat Road (South side) Jagannath Ghat Road (North side)	12851	10281
34e	Cross Road No. 6 & 7	11911	
<b>Jagannath Ghat Road to Howtah Bridge</b>			
35a	Strand Road from Jagannath Ghat Road to Mint Garden	15046	12037
35b	Strand Bank Road from Jagannath Ghat Road to Howrah Bridge	15046	
35c	Jagannath Ghat Road ( South side )	12694	10155
<b>From Howrah Bridge. Mullick Ghat &amp; Adjoining Area TO Calcutta Jetty No. 9</b>			
36a	Strand Bank Road from Howrah Bridge to Mullick Ghat	14765	
36b	Strand Road near Mullick Ghat Pumping Station	15046	12037
36c	Old Howrah Bridge Approach Road adjacent to the same	15064	12051
37	Land at Chandpal Ghat, Outram Ghat and Babu Ghat including Land at Strand Road from Howrah Bridge Approaches to Chandpal Ghat (Western Side) including strips of land between Starnd Road and River	14633	
38(i)	Land at Tuckta Ghat including riverside Land upto Tolly's Nullah from Tuktaghat	5168	
38(ii)	Land from Chandpal Ghat to Tukta Ghat )	9901	
<b>Land at Howrah</b>			
39	Chandmari Ghat, Howrah Station	13999	
40	Nityadhan Mukherjee Road (Telkal Ghat).	3101	

41	Strand Road, Howrah.	4135	
42a	Upper Foreshore Road.	3619	
42b	Mullick Ghat Road.	3101	
42c	Cross Road No.1	3101	
43	Cross Road Nos. 2, 3 & 4.	3101	
<b>Grand Foreshore Road River Side</b>			
44a	Portion on the north of Banstalla Ghat Road.	3101	
44b	Portion on the south of Banstalla Ghat Road.	3101	
45	Chintamoni Dey Bathing Ghat Road.	2585	
<b>Banstalla Ghat Road</b>			
46a	North side.	2585	
46b	South side.	2585	
<b>Foreshore Road</b>			
47a	From Bonbehari Bose Road to Banstalla Ghat Road	2585	2068
47b	From Banstalla Ghat Road to Jagat Banerjee Gaht Road.	3428	2742
48	Jagat Banerjee Ghat Road , Shippore Ferry Ghat Road and NO 1 Riverside Road	7403	
<b>Shalimar Yard</b>			
49a	Foreshore Road East Side	4135	3308
49b	Foreshore Road West Side	2678	2142
50	Duke Road	2678	
<b>Foreshore Road (Timber Pond)</b>			
51a	High Land	1100	
51b	Low Land	808	
52a	Bandhaghat	4743	
52b	Golabarighat	4743	
52c	Near Howrah Bridge Pier (Howrah Side) area	13999	
53	Budge Budge	1043	
54	Roychak	1177	
55	Hooghly Point	536	
56	Falta	421	
57	Balagarh	245	
58	Jellingham	21	
59	Gangrachar	21	
60	Diamond Harbour	814	
61	Khejuri	54	
62	Shimurali	518	
63	Durgapur	322	
64	South Khalichar	21	
65	Baharampur	1333	
66	Nischintapur	342	
67	Pyradanga	13	
68	Saugor	116	
69	Fresergunj	203	
70	Moyapur	500	
71	Swarupgunj	1047	

72	Nabadwip	45
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(ii). **For Warehouses and Buildings:**

	<b>Location &amp; Description of Structure</b>	<b>Recommended Rate (per 100 sq.m per month)</b>
<b>1</b>	<b>ARMENIAN GHAT WAREHOUSE</b>	
i	Ground Floor Godowns	25983
ii	First Floor Godowns	18189
<b>2</b>	Calcutta Jetty Shed No. 1	23501
<b>3</b>	<b>CANNING WAREHOUSE</b>	
i	Ground Floor Godowns	25983
ii	First Floor Godowns	18189
iii	Second Floor Godowns	11684
<b>4</b>	<b>CLIVE WAREHOUSE</b>	
i	Ground Floor Godowns	23501
ii	First Floor Godowns	16450
iii	Second Floor Godowns	11684
<b>5</b>	<b>FAIRLIE WAREHOUSE</b>	
i	Ground Floor Godowns	23501
ii	First Floor Godowns	16450
iii	Second Floor Godowns	11684
<b>6</b>	<b>CANNING WAREHOUSE(ANNEXE)</b>	
i	Ground Floor Godowns	25983
ii	First Floor Godowns	18189
<b>8</b>	<b>Import Warehouse (8 compartments)</b>	23501
<b>9</b>	Import Warehouse South.	23501
<b>10</b>	Calcutta Jetty Shed No. 4	23501
<b>11</b>	Calcutta Jetty Shed No. 5. (Northernmost Bay).	23501
<b>12</b>	<b>P-221/2, STRAND BANK ROAD</b>	
i	Ground Floor (Shops).	30868
ii	Ground Floor (Godowns).	23501
iii	Ground Floor Annexe	12926
iv	Second Floor	19586
v	Top Floor.	19586
<b>13</b>	<b>"A" SHED JAGANNATH GHAT</b>	
i	Ground Floor	14072
ii	First Floor	9850
iii	Office space on the Top Floor	7036
iv	Miscellaneous structure attached to the Warehouse such as Darwans Quarters Cook Houses etc.	8443
<b>14</b>	R.D.F. Godowns at Jagannath Ghat Road.	20579
<b>15</b>	Jagannath Ghat Godowns	21829
<b>16</b>	<b>PATHURIAGHAT WAREHOUSE</b>	
i	Ground Floor Godowns (Compartment Nos. 1 to 5)	18346
ii	First Floor Godowns (Compartment Nos. 6 to 10)	9608
iii	Ground Floor Pucca Godowns Nos. 12 to 17/2 (C.I.Roof).	18346
<b>17</b>	Nimtallah Station Shed.	18920
<b>18</b>	<b>SAHEB BAZAR GODOWNS</b>	
i	Nos. 3, 3A, 4 & 4A	15766
ii	Godown No. 5	14823
<b>19</b>	Ruthtala Station Road	13983

<b>20</b>	<b>BAGHBAZAR WAREHOUSE</b>	
i	Ground Floor Godown No. 1	13419
ii	First Floor Godown No. 2 & 4, access by two wooden ramps	9393
<b>21</b>	Cossipore Receiving Shed	9912
<b>22</b>	4 shop rooms with verandah at Armenian Ghat	18049
<b>23</b>	Shed at Outram Ghat	19319
<b>24</b>	<b>OTHER STRUCTURES</b>	
i	Building with pucca roof	4228*
ii	Building with R.T. and Asbestos roof	3223*
iii	Building with C.I. roof	2629*
	<b>DOCK</b>	
<b>25</b>	<b>HIDE ROAD GODOWNS</b>	
i	Godowns, enclosed verandah & miscellaneous closed floor space	10338
ii	Open sided verandah space	5169
26 i	Hoboken sheds (including naval transit sheds)	8955
26 ii	Brooklyn T.N. Shed	7762
26 iii	Brooklyn T.G. Shed	8150
<b>27</b>	Jinjinrapole Sheds	9186
<b>28</b>	<b>Structures/ Rooms In any Zone (not covered within mentioned within zones)</b>	
i	Building with Pucca Roof	5035*
ii	Building with R.T. and Asbestos roof	4028*
iii	Building with C.I. roof	3287*
29	Kantapukur Sheds	8955
<b>30</b>	<b>TEA WAREHOUSES</b>	
i	Hide Road Warehouse	7960
ii	Sale Tea Warehouse	9023
	First Floor Rate 70% of Ground Floor Rate	6316
	2nd floor and above	4512
iii	Sale Tea Warehouse (Annexe)	7932
iv	<b>Lybian Depot Warehouse</b>	
a	Ground Floor	11615
b	1st Floor	8130
c	2nd Floor upwards	6960
v	<b>T.T. Sheds</b>	6960
	1ST Floor	4449
vi	<b>T.T. Sheds Extension</b>	6960
<b>31</b>	<b>Import Warehouse "A" N.S.D.</b>	
	Ground Floor	6407
	1st Floor	4997
	2n Floor upwards	3661
	<b>HOWRAH</b>	
<b>32</b>	<b>SHED AT 14 FORESHORE ROAD, RAMKRISTOPUR</b>	
i	Ground Floor Space	6667
ii	First Floor Space	4667
<b>33</b>	Station Shed (North) Ramkristopur	7033
<b>34</b>	Station Shed (South) Ramkristopur	7033

35	New Goods Shed Ramkristopur	7033
36	Structures at 109, Foreshore Road, Ramkristopur	7124
37	Nissen Sheds at 108, Foreshore Road, Ramkristopur	6967
38	Small office Building at Timber Pond	3142
	<b>BUDGE BUDGE</b>	
39	Budge Budge Godown / Sheds	4370
	<b>OTHER STRUCTURE</b>	
40i	Building with pucca roof	4228*
ii	Building with R.T. and Asbestos roof	3223*
iii	Building with C.I. roof	2629*
41	<b>Gangway and Pontoon of KOPT</b>	1,28000 (pmL.S)**
42	<b>Gangway and Pontoon of Party</b>	9000-per month (L.S) #

\* Land Cost of respective zones to be added for final rate.

\*\* including foreshore occupation charge where Approach and/or back land belongs to KOPT only

# including foreshore occupation charge subject to minimum of ₹ 27000/- where Approach and/ or back land belongs to KOPT only

5.3. The KOPT has also furnished the Minutes of the LAC meeting in respect of KDS estates held on 22 July 2016 and Minutes of the LAC meeting in respect of HDC held on 2 August 2016.

5.4. The KOPT has stated that the Board of Trustees of KOPT in its meeting held on 24 August 2016 has approved the rates proposed by the LAC prepared on the basis of Valuation report submitted by M/s Colliers International (India) Property Services Pvt Ltd., who was engaged by the KOPT as a valuer for the valuation purpose and also other factors, in terms of "Land Policy Guidelines 2014 – Clarification with modification" issued by the Ministry of Shipping on 17 July 2015. The copy of the Minutes of the Board is furnished by KOPT. From the Minutes of the Board Meeting furnished by KOPT, it is seen that the Board of Trustees have resolved to recommend the proposed SOR for KDS and HDC, provided the capping for the land at KDS may be done at 75% of the existing rates.

5.5. The KOPT has proposed to implement the SOR prospectively for the following reasons:

- (a). Occupants of many lands parcels and structures of KOPT under license within Customs bound area, have surrendered or are in the process of surrendering their occupations between 07.04.2016 and the date of effect of the proposed SOR. It would be extremely difficult to realize the difference of license fees for the aforesaid period.
- (b). KOPT is contemplating to invite tender-cum-auction for allotment of more than 80 vacant land parcels/structures. As per land Policy Guidelines. 2014, as modified vide ministry's letter dated 27.07.2015, the reserve annual rent/ upfront for any tender-cum-auction is to be fixed on the basis of updated SOR. As such, it is revised SOR is given effect retrospectively.
- (c). Since the validity of the SOR has been extended by six months w.e.f 07.04.2016 by TAMP through the order under reference, such reserve annual rent/ upfront may be fixed on the basis of updated extant SOR. But, in that case, there may be occasions where the highest bid received in such tender-cum-auction may ultimately turn out to be lower than the revised SOR. To safe-guard KOPT'S interest, a suitable clause may be incorporated in such tender-cum-auction where the successful bidder would have to pay as per revised SOR, in case the rate of revised SOR happens to be higher. Even then, retrospective implementation of

the conditionality's of revised SOR would lead to confusion and ambiguity. This may, in turn, repel prospective tenders come forward, they may ultimately challenge such fixation of rate of revised SOR retrospectively, superseding the rate obtained through tender-cum-auction.

In addition, such prospective tenderers might not get any opportunity to attend the hearing to be given by TAMP since at that point of time, they might not have become lessee.

- (d). Ld. Estate Officers after adjudicating the damage and rental arrears, may fix the quantum on the basis of the extant updated SOR, as per public Premises (Eviction of Unauthorized Occupants) Act, 1971. Retrospective revision of SOR may lead to recovery of lesser amount that what it should have been.
- (e). Retrospective revision of SOR may have issues with Service Tax.

6. In accordance with the consultative procedure prescribed, a copy each of the KOPT proposal dated 29 September 2016 and 28 October 2016 was forwarded to the concerned users/ organization bodies vide our letter dated 15 November 2016, seeking their comments. Some of the users / user organizations have furnished their comments on the proposal of KOPT. The said comments were forwarded to the KOPT as feedback information. In response to this, the KOPT vide its letters dated 6 January 2017, two letters dated 18 January 2017 and two letters dated 01 March 2017 has responded to the comments of the users/ user organisations.

7. A joint hearing on the case in reference was held on 24 November 2016 at the KOPT premises in Kolkata. At the joint hearing, the KOPT made a brief power point presentation of its proposal. The KOPT and the users/ user organisations have made their submissions at the joint hearing,

8. On scrutiny of the KOPT proposal, it was seen that some clarity was needed on some aspects of the proposal. Accordingly, the KOPT was requested vide our letter dated 13 February 2017 to furnish some clarification. The KOPT has responded vide its letter dated 17 February 2017. The clarification sought by us and the response of KOPT thereon are tabulated below:

Sl. No.	Clarification sought by us	Response of KOPT						
(i).	<p>As mentioned by the Kolkata Port Trust (KOPT) in its proposal, the Board of Trustees of KOPT have recommended to cap the proposed Scale of Rates for Land of Kolkata Dock System (KDS) at 75% of the existing rates (i.e. of updated Scale of Rates as of 7.4.2016).</p> <p>In this connection, on scrutiny of the proposed Schedule of Rent for KDS, the increase in the rentals proposed by the Port in respect of some areas is seen to be more than the cap of 75% recommended by the Board of Trustees of KOPT. For instance, in the following areas, the rentals proposed by the Port for the First Belt is seen to be more than 75% of the existing escalated rates –</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">No.</th> <th style="text-align: center;">Description of the Land</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Watgunge</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Satya Doctor Road and Gopal Doctor Road</td> </tr> </tbody> </table>	No.	Description of the Land	1	Watgunge	2	Satya Doctor Road and Gopal Doctor Road	<p>KOPT Board while recommending the proposed SOR in Reso dated 24.8.2016 recorded that <i>“The size of land area affects the value of plots. So far, KOPT has been following the principle of belting [i.e. higher rate of rent for first 50 m from the main road and lower rate of rent beyond 50 m from the main road] which, in turn, allowed lower average unit rate for larger plots. Valuer is also in agreement with such principle. Accordingly, it is recommended that the derived rates would be applicable for 1<sup>st</sup> belt only. Second belt would be charged uniformly at 80% of the 1<sup>st</sup> belt rates. However, the belting should be uniform and applicable for all zones where it has been allowed in the Schedule of rent of 2011. In other words, the areas within 1<sup>st</sup> 50 mtrs of Road will be charged at 1<sup>st</sup> belt rate for all such zones and areas beyond such 1<sup>st</sup> belt would be charged 2<sup>nd</sup> belt rate which will be 80% of 1<sup>st</sup> belt rate.”</i> Accordingly rates derived and Capping applied are on the basis of 1<sup>st</sup> belt rates only.</p>
No.	Description of the Land							
1	Watgunge							
2	Satya Doctor Road and Gopal Doctor Road							

3	Hide Road
4	Goragacha Road, Incinerator Road, Transport Depot Road and the adjoining Roads.
5	Dock West Road
6	Eastern Boundary Road
7	Hari Mohan Ghosh Road.
8	Ramnagar
9	Suriman & Alifnagar Road.
10	Land inside Kantapukur, Hoboken Depot, Coal Dock Road & R.I.M. Dock Yard.
11	Daighat
12	Hide Shed Dump (old siding area)

Similarly, for instance, in the following areas, the rentals proposed by the Port for the Second Belt are seen to be more than 75% of the existing escalated rates

No.	Description of the Land
1	Nimak Mahal Road
2	Goragacha Road, Incinerator Road, Transport Depot Road and the adjoining Roads.
3	Taratata Road from Diamond Harbour Road to Budge Budge Road and Mint Place
4	Strand Road from Adya Sradhya Ghat Road to Jagannath Ghat Road
5	From Bonbehari Bose Road to Banstalla Ghat Road
6	From Banstalla Ghat Road to Jagat Banerjee Ghat Road.
7	Shalimar Yard
8	Foreshore Road East Side

The KOPT to examine this aspect and also identify any other area where the rentals proposed by the Port for the First Belt/ Second Belt are more than 75% of the existing escalated rates and examine and ensure that the rentals proposed by the Port are in line with the recommendation of the Board of Trustees to cap the proposed Scale of Rates for Land of KDS at 75% of the existing rates (i.e. of updated Scale of Rates as of 7.4.2016).

It is stated that in the proposed rates for first belt have not exceeded 75% of the rate as per existing SOR prevalent on 7.4.2016. The KOPT has attached as statement 1 in this regard. It appears that TAMP has made comparison on the basis of the rates proposed by the Valuers. However, as explained in the proposal, the Board has decided to moderate the rate increase to 75% of the rate as per SOR 2011 prevalent on 7.4.2016. However the percentage % increase in respect of the Zones indicated in the letter under reference is furnished below:

S L N o	Description of Land	Zone in Proposed SoR	% increase for 1 <sup>st</sup> belt
1	Watgunge	4b	75%
2	Satya Doctor Road and Gopal Doctor Road	6	75%
3	Hide Road	7a	75%
4	Garagacha Road, incinerator Road, T.P Depot Road and the adjoining Road	9	75%
5	Dock West Road	13	75%
6	(Dock) Eastern Boundary Road	14	75%
7	Hari Mohan Ghosh Road	18	75%
8	Ramnagar	19a	75%
9	Surinam & Alifnagar Yard	19b	75%
10	Land Inside Kantapukur, Hoboken Depot	23a	75%
11	Daighat	24	75%
12	Hide Shed Dump (old siding area)	28e	75%

It is reiterated that the rate analysis was done and rates were derived in respect of 1<sup>st</sup> belts only for different zones. However in accordance with recommendation of the Valuer the Board decided to allow rebate of 20% for plots having second belt in existing cases. In the existing schedule, the ratio of rates between 1<sup>st</sup> belt and second belt

		<p><u>across all the relevant zones are not uniform.</u> It varies from 54 % to 81% but the general differential is around 20% as can be seen in the attached statement No.2. In order to bring uniformity, it was decided to maintain a ratio of 80% which may have some implications in respect of few zones where the earlier differential was less than 80%. The KOPT attached Statement 2 in this regard.</p> <p>In view of the position explained above, the rentals proposed are in conformity with the decision of the Board.</p>
(ii).	The KOPT to also confirm whether by capping the proposed increase in rentals at 75% of the existing escalated rates, whether the proposed rentals would be in line with the Clause 13(b) of the Land Policy Guidelines, 2014, which stipulates that the Reserve Price in terms of the annual lease rent should in no case be less than 6% of the latest market value of the land.	<p>It is stated that the five factors listed under Clause 13 (c) of the Land Policy Guidelines, to determine the latest market value of Port land, includes any other relevant factor as may be identified by the Port. Accordingly, Board has recommended to moderate the proposed increase for the reasons recorded in detail.</p> <p>It is requested that the proposal of the KOPT, framed in line with the Land Policy Guidelines issued by the Government of India and supported by a detailed valuation may be approved by TAMP</p>

9. The KOPT has initially not proposed the rates for advertisement or hoarding at KDS. Subsequently, the KOPT vide its email dated 21 January 2017 has stated that the Board of Trustees has of KOPT have agreed to recommend the rate of ₹. 3530/- per sq. ft per year towards Licence fee for hoardings for advertisement in Kolkata, Howrah and Dock Zones under KDS. The KOPT has also furnished the copy of Board resolution on the matter.

10. On the request made by the users viz., Diamond Beverages Private Limited (DBPL) and Port Tenants Welfare Association (PTWA), an opportunity was given to them to present their case in the Office of the Authority on 06 March 2017. However, only the DBPL presented its case and the PTWA expressed its inability to be present on the said date. The PTWA was requested to give its submissions in writing within a week, which would be taken into account while finalizing the KOPT proposal in reference. However, the PTWA has not responded, till the case was finalized.

11. As brought out earlier, based on the request made by KOPT, this Authority vide its Order dated 30 March 2016 had extended the validity of the Rent Schedule for the lands and buildings of KDS and HDC for a period of 6 months upto 6 October 2016. Thereafter, based on the request of KOPT and considering that the proposal of KOPT is under consultation and that it may take some time for the case to mature for consideration of this Authority, this Authority vide its Order dated 25 October 2016 had extended the validity of the Rent Schedule for the lands and buildings of KDS and HDC upto 31 December 2016. Subsequently, considering the time required for processing the proposal of revision of SOR for the lands and buildings filed by the KOPT and in order to avoid a vacuum in the Rent Schedule of KOPT, this Authority vide its Order dated 04 January 2017 has extended the validity of the existing SOR of KOPT for the lands and buildings at Kolkata and Haldia upto 31 March 2017 or till the effective date of implementation of the revised SOR, whichever is earlier.

12. Further, given that the Land Policy Guidelines of 2010 issued by the Government (based on which the rate structure for the lands and buildings of KOPT at Kolkata and Haldia has been fixed in 2011) stipulates that the lease rentals approved by this Authority shall be escalated

by 2% per annum till they are revised by this Authority and since the Order of January 2011 of KOPT also prescribes a specific condition in this regard, all the above referred Orders granting for extension of the validity of the Rent Schedule specifically prescribes that the annual escalation @ 2% will continue to apply during the extended validity period of the Rent Schedule for the Lands and Buildings of KOPT at Kolkata and Haldia.

13. 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>.

14. 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 lands and buildings of Kolkata Port Trust (KOPT) at Kolkata and Haldia was last fixed by this Authority vide Order No.TAMP/7/2010-KOPT dated 19 January 2011. The said Rent Schedule came into effect from 7 April 2011 and was valid for a period of 5 years i.e. upto 6 April 2016. Thereafter, this Authority has extended the validity of the existing Rent Schedule beyond 6 April 2016. On the last occasion, the validity of the Rent Schedule has been extended upto 31 March 2017 or till the effective date of implementation of the revised Rent Schedule, whichever is earlier.
- (ii). 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 its estate rentals, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.
- (iii). 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). Given that there are two separate Rent Schedules for land and buildings at Kolkata and Haldia respectively, the KOPT is seen to have constituted 2 different LACs for Kolkata and Haldia separately. The LAC constituted in respect of lands and buildings at Kolkata was headed by Chairman and consisted of Deputy Chairman, F.A. & C.A.O., Chief Engineer, Secretary (i/c) and Estate Manager as Members of the Committee. The LAC constituted in respect of lands and buildings at Haldia was headed by Deputy Chairman and consisted 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.
- (iv). (a). As stated earlier, Clause 13(a) of the amended Land policy guidelines, 2014 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said Clause 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). Land at Kolkata Dock System (KDS)

The lands of the KOPT under KDS have been broadly grouped under Lands at Dock, Lands at Kolkata and Lands at Howrah. Budge Budge and Lands at other locations. Kolkata Dock area is considered to be one of the major locations in the city primarily surrounding with many residential and commercial areas. Plots in the Kolkata Dock area are being used for industrial purpose by different tenants along with few institutional usage.

Plots in Kolkata area are being used as mostly storage and business purpose by different occupants.

Plots in Howrah area are being used as mostly industrial along with few commercial, recreational and storage and warehousing by different occupants.

The Land parcel of KDS have been divided in several clusters depending on their geographical location and other relevant parameters. Such cluster have been sub-divided into 1 to 4 value area depending on the infrastructure available which would affect the value of land. The lands under KDS are categorized, in some cases as First Belt and Second Belt. For KDS, the LAC has observed that the State Government Ready Reckoner rate is not available in West Bengal. Therefore, the approach adopted by the Valuer of arriving at the market value of land by relying upon the rate of transactions of neighboring land parcels and thereafter applying various discount factors to remove inconsistencies between value areas and comparable area to arrive at the current value of the land, has been considered by the LAC. The various different factors as considered by the Valuer are as follows:

- (i). Listing Discount @ 5% - Towards negotiation/ bargaining between prospective buyer and prospective seller on the listed price.
  - (ii). Time Adjustment @ 2% - Towards updating the transaction value obtained from Sub-Registrar's Office where actual transaction took place more than a year ago.
  - (iii). Land Use @ 25% - Towards discounting the land value having industrial use as compared to the residential/ commercial/ mixed usage.
  - (iv). Infrastructure Adjustment @ 10% to 25% - Towards various poor facilities at the port area in respect of road, drainage, street illumination which are not comparable with the adjacent area or other parts of the city, apart from restriction on vehicular movement, shortage of parking facilities, encroachment and restriction on new industry.
  - (v). Ownership factor @ 15%- The sites within KDS generally have lease hold right for 30 years, lease hold land parcel are priced lower than the free hold area. In and around Kolkata, the factor varies between 10-20%. The valuer has considered the discount factor as 15%. Towards discounting the leasehold land as compared to the freehold land.
- (c). The above mentioned adjustment factors are in relation to high value zone. For very high value zone (Dock area), adjustment factor at slightly moderated level have been applied on the rates of comparable area. As far as medium and low value zones are concerned, adjustment factor at a slightly higher level have been applied on the rates of comparable area.

(d). Land at Haldia Dock Complex (HDC):

The HDC area is considered to be a major industrial location in West Bengal primarily surrounded by many residential and industrial area. The lands of the KOPT under HDC consists of multiple land parcels and are grouped into six zones and spread across the Dock area. viz., Residential Zone, Industrial Zone, Dock Interior Zone, Dock Zone, Commercial Zone, Kukrahati and Panskura. Plots in existing zones are being used as industrial, residential and commercial purpose by different tenancy. For HDC, the LAC has observed that the Valuer has arrived at the value of the land by taking into account the Govt. Guideline value, sale transaction in the vicinity of port land, tender cum auction rates obtained during the last 2 years and thereafter applying various adjustment factors has arrived at the market value of the land. The various adjustment factors considered by the Valuer as seen from the Valuation Report are as follows:

- (i). Listing Discount @ 5% - Towards negotiation/ bargaining between prospective buyer and prospective seller on the listed price.
  - (ii). Time Adjustment @ 2% - Towards updating the transaction value obtained from Sub-Registrar's Office @ 2% per annum.
  - (iii). Land area discount @ 5% to 15% - Towards smaller land parcels being priced higher than the larger ones
  - (iv). Land Use @ 10% to 25% - Towards discounting the land value having industrial use as compared to the residential/ commercial/ mixed usage.
  - (v). Infrastructure Adjustment @ 10% to 25% - Towards various poor facilities at the site in respect of road, drainage, street illumination, restricted vehicular movement, shortage of parking facilities, encroachment and restriction on new industry.
  - (vi). Ownership factor @ 15% - Towards discounting the leasehold land as compared to the freehold land.
- (d). 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 lands at KDS and HDC, the Reserve Price in terms of the Annual Lease Rent for the lands at KDS and HDC has been recommended by the Valuer at 6% of the market value of land of KDS and HDC so derived.
- (e). Thus, based on the above position, the two different LACs constituted for the lands at KDS and HDC respectively have accepted the recommendations contained in the Valuation Report of the Valuer. In other words, the market value of lands as well as the Reserve Price in terms of the Annual Lease Rent for the various areas and Zones at KDS and HDC, as arrived at by the Valuer has been recommended by the LAC in their respective Reports.
- (f). Subsequent to recommendation of the LACs, the matter has been referred to the Board of Trustees of KOPT. The Board of Trustees have resolved to recommend the proposed SOR for HDC as recommended by the LAC. However, the Board of Trustees of KOPT have resolved to cap the rentals for the lands at KDS at 75% of the existing updated rates prevailing as on 07 April 2016.
- (g). With regard to the KDS lands, it is to state that the KOPT has been following the principle of belting i.e. higher rate of rent for first belt i.e. 50 m from the main road and lower rate of rent for second belt i.e. beyond 50 m from the main road. In the existing Rent schedule for KDS, the ratio of

rates between 1<sup>st</sup> belt and 2<sup>nd</sup> belt across all the relevant zones varied between 54% to 81%. In the current valuation of lands, in accordance with recommendation of the Valuer, the Board of Trustees of KOPT has decided to allow a rebate of 20% for plots having second belt in existing cases. In other words, the areas within 1<sup>st</sup> 50 mtrs of Road would be charged at 1<sup>st</sup> belt rate and areas beyond such 1<sup>st</sup> belt is reported to be charged 2<sup>nd</sup> belt rate which will be 80% of 1<sup>st</sup> belt rate. Thus, as per the Valuation Report, the rate analysis done and rates derived are in respect of 1<sup>st</sup> belts only for different zones at KDS. Therefore, the Port is of the view that capping of 75% as decided by the Board of Trustees of KOPT is applicable only in respect of 1<sup>st</sup> belt rates only. The rates for the 2<sup>nd</sup> belt, wherever applicable, has been proposed by KOPT at 80% of the capped rates of the relevant 1<sup>st</sup> belt.

- (vi). As brought out earlier, one of the factors listed in the Land Policy Guidelines to determine the market value of land is rate arrived at by an approved valuer appointed for the purpose by the Port. Thus, based on the stipulation of Clause 13 (a)(iv) of amended Land Policy Guidelines of 2014, an approved land valuer has been engaged by KOPT for assessing the market value of the KOPT estates. It is relevant to mention here that majority of the users have strongly objected to the methodology of Valuation of port lands followed by the Valuer while assessing the market value of the lands, which in turn has been considered by the Valuer to arrive at the proposed Reserve Price in terms of annual lease rentals for the various areas in KDS and HDC. The Kolkata Port Zone Establishment Welfare Association (KPZEWA) and the Diamond Beverages Private Limited (DBPL) have raised serious concerns regarding the base value of land considered by the Valuer and the quantum of the various adjustment factors applied by the Valuer to arrive at the market value of a particular piece of land. When the comments of KOPT were sought on the submissions made by the users, the KOPT has given detailed justification for all the issues raised by the users, which have already been brought out. As observed from the valuation Report, the valuation has been prepared by experienced team of professionals who reportedly have experience in the valuation of properties of magnitude of KOPT. They have carried out all investigation independently and without influence from third parties in any way. The survey Team of the valuer has personally inspected the properties. Given that the market value of the KOPT estates so assessed by the Valuer has been recommended by the LAC headed by Chairman/ Dy. Chairman and has been approved by Board of Trustees of the KOPT, the market value of the land as assessed by the Valuer for the various areas and Zones at KDS and HDC has been considered in this analysis.
- (vii). A comparative statement showing the rentals fixed for the various areas of KDS in 2011, the rentals prevailing as on 7 April 2016 after updating it with 2% escalation per annum, the rentals as recommended by the Valuer, the rentals proposed by the KOPT and the percentage of increase in rentals proposed by KOPT over the rentals prevailing as on 7 April 2016, is attached as **Annex – I**. Similarly, a comparative statement showing the rentals fixed for the various areas of HDC in 2011, the rentals prevailing as on 7 April 2016 after updating it with 2% escalation per annum, the rentals as recommended by the Valuer, the rentals proposed by the KOPT and the percentage of increase in rentals proposed by KOPT over the rentals prevailing as on 07 April 2016 is attached as **Annex – II**.
- (viii). From the said tables, it can be seen that the rentals in respect of lands at KDS for the 1<sup>st</sup> Belt have been proposed to be increased by KOPT in the range of 0% - 75%. The rentals in respect of lands at KDS for the 2<sup>nd</sup> Belt have been proposed to be increased by KOPT in the range of 5% - 154%. Infact, the rentals in respect of lands at KDS for the 2<sup>nd</sup> Belt has gone up substantially, due to the rationalization carried out by KOPT to prescribe the rate for 2<sup>nd</sup> belt uniformly at 80% of 1<sup>st</sup> belt, when the existing difference between the rentals of the 1<sup>st</sup> belt and 2<sup>nd</sup> belt varied between 54% to 81%. The rentals in respect of lands at HDC have been proposed to be increased by KOPT in the range of 4% - 16%. The users

have strongly objected to the quantum of increase in the rentals proposed by the KOPT. The users are of the view that the poor infrastructure and the lack of basic facilities at the areas do not justify the steep increase in rentals as proposed by the Port. Some of the users have submitted photographs reflecting the bad condition of the roads, encroachments, lack of sanitation etc. in some of the areas. In this connection, the KOPT has reported that the poor road and drainage condition, absence of street illumination in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in by the Valuer in his Report by using appropriate adjustment factors, while arriving at the market value of the Land. Even otherwise, the Port has reported to have issued Work Orders for major road renovation and restoration works in and around Dock area, which would improve the situation in near future. The KOPT has also reported to be in the process of developing additional parking facilities to streamline the traffic flow. The Land Policy Guidelines requires the reserve price in terms of annual lease rentals to be revised based on the prevailing market value of the land. On the last occasion, the lease rentals have been fixed in the year 2011, based on the market value of lands prevailing then. With the passage of time, the market value of the land is bound to go up particularly in a metropolis. The KOPT has also reported that the Valuer while arriving at the market value of the lands has already taken into account the various concerns now raised by the users. The market value of KOPT lands as arrived in the Valuation Report has been recommended by the LAC headed by Chairman / Dy. Chairman and has also been approved by the Board of Trustees of the KOPT. The KOPT has stated that its proposal has been framed following the amended Land Policy Guidelines, 2014. In the circumstance, the rent Schedule for Lands at KDS as proposed by the KOPT is approved.

- (xi). In respect of KDS lands, the KOPT is seen to have now proposed rentals for new areas, which were earlier not prescribed in the 2011 Rent Schedule viz., Land from Chandpal Ghat to Tukta Ghat, Bandhaghat, Golabarighat, Near Howrah Bridge Pier (Howrah side) area, Budge Budge, Falta, Moyapur, Swarupgunj and Nabadwip, perhaps to bring clarity to the levy of rentals based on the applicable market value of land. The rentals earlier prescribed in respect of Nizgarh and Garbhukta Nandanpur in the 2011 Rent Schedule of KDS is seen to have been deleted by the Port. The port has not explained the reason for such deletion. Anyways, none of the users have objected to the deletion of prescription of rentals for the said areas. The proposed addition and deletion to the various areas as discussed above in the proposed Rent Schedule of KDS is also approved.
- (x). Similarly, in respect of HDC lands, the earlier prescribed area of Dock Zone in the 2011 Rent Schedule has been bifurcated into Dock Zone (Bare Land) and Dock Zone (Hard Stand). The proposed bifurcation in the area of Dock Zone will bring in clarity and avoid ambiguity and hence, is approved.
- (xi). As brought out earlier, the users have strongly objected to the quantum of increase in the rentals proposed by the KOPT. Further, as against the ratio of rates between 1st belt and 2nd belt varying between 54% to 81% in the existing Rent Schedule of KDS, the variation between the 1<sup>st</sup> and the 2<sup>nd</sup> belt has been uniformly maintained at 80% across all areas. In view of the said rationalization, the rentals for the following areas in the 2<sup>nd</sup> belt are seen to be higher viz.,
  - (a). Nimak Mahal Road
  - (b). Goragacha Road, Incinerator Road, Transport Depot Road and the adjoining Roads.
  - (c). Taratala Road from Diamond Harbour Road to Budge Budge Road and Mint Place.
  - (d). Strand Road from Adya Sradhya Ghat Road to Jagannath Ghat Road.
  - (e). From Bonbehari Bose Road to Banstalla Ghat Road
  - (f). From Banstalla Ghat Road to Jagat Banerjee Gaht Road.
  - (g). Foreshore Road East Side

- (xii). For the reasons given earlier, the rentals for the second belt for the above area are also approved. The users have raised number of objections for the proposed increase in rentals of 1<sup>st</sup> Belt and 2<sup>nd</sup> Belt. The Tariff Guidelines of 2005 for fixation of tariff gives scope to this Authority to adjust the tariff depending on the cost position. No such scope is available to this Authority in the amended Land Policy Guidelines, 2014. Therefore, this Authority is not in position to consider each and every objection and effect reduction in the proposed rentals suo motu. Therefore, based on the objections made by users, the KOPT may like to review the rentals for lands of KOPT. The KOPT is advised to have a relook into the various objections of the users and, if necessary, a revised proposal may be submitted to this Authority for consideration.
- (xiii). (a). It is noteworthy that the KOPT in its proposal, in addition to proposing rentals for the lands at KDS and HDC, has also proposed rentals for the various structures at KDS and HDC. Incase of KDS, rentals have been prescribed for warehouses and buildings, Godowns, other structures used for commercial activities, Office/ shop rooms in the Docks, Sheds and other structures like bathrooms, garages etc. Incase of HDC, rentals have been prescribed for roofed structures, tower building, Quarters/ Dormitories, markets for perishable goods, retail markets, shopping center, etc.
- (b). The Valuation of Buildings and Structures at both HDC and KDS has been done by the Valuer by estimating the depreciated replacement cost method. As explained in the Valuation Report, depreciated replacement cost is the cost of any improvements of the building which is estimated by ascertaining its replacement cost of improvement adjusted for accrued depreciation of the same. The depreciated replacement cost of the building has been estimated by ascertaining its replacement cost of improvement with the same utility and deducting accrued depreciation on the replacement cost. Thereafter, annual rent has been calculated by the Valuer at 6% of the value of the building so determined incase of KDS and 9% of the value of the building so determined incase of HDC.
- (c). The amended Land Policy Guidelines lay down the procedure and methodology to be followed for determining the market value and lease rental of the port lands. No specific Guidelines are prescribed in Land Policy for fixation of lease rent for the premises owned and constructed by a Port Trust.
- (d). This Authority is statutorily mandated under Section 49(1) of the Major Port Trusts Act, 1963 to frame Scale of Rates (SOR) and conditionalities governing application of the SOR from time to time for any property belonging to or in the possession of a Port Trust. Further, Land as per Section 2(K) of the MPT Act, 1963 includes, inter alia, things attached to the earth or permanently fastened to anything attached to the earth. That being so, the methodology prescribed in the Land Policy Guidelines to determine the market value and reserve price in terms of annual lease rent for port "land" may have to be applied mutantis-mutandis for determination of market value and reserve price in terms of lease rent for "buildings" also.
- (e). With regard to fixation of rentals for the structures, it is relevant here to draw reference to the Order no. TAMP/32/2015-MOPT dated 27 February 2016 passed by this Authority fixing rentals for the various port structures of the Mormugao Port Trust (MOPT). To determine the rentals for the structures, the Port had stated that it has arrived at valuation of structures considering the total value of land and constructed areas adopting the five factors prescribed in the Land Policy Guidelines. The port had engaged an approved valuer for valuation of structures as per the fourth method prescribed in the Land Policy Guidelines. The port had reported that the

valuer had considered the total value of land and constructed areas as the base for arriving the valuation of the structures. The port had clarified that Cost Approach is adopted for valuation of its structure. Under the cost approach, the replacement/ reinstatement cost i.e. the cost of constructing a new structure with same type of construction, same or similar specifications, design, building materials, etc. was computed. To this reinstatement cost, a suitable discount/ allowance towards the age of the structure, locality and other factors, considering a balance economic life based on the present state, strength, maintenance, was considered. The 'fair market value' of the property was reported to have been arrived at after considering all the discount/ allowance/ depreciation from the cost of a new construction for each of the structure. The approved valuer had confirmed that the methodology followed by them is a standard method for valuation of properties. The MOPT had also conclusively clarified that the valuation of structure is not the current construction cost or replacement cost of structures, but the present value of the premises. Thus, this Authority in its Order no. TAMP/32/2015-MOPT dated 27 February 2016 has gone with the proposal of the port and has prescribed rentals for the structures of MOPT, as proposed by the Port.

- (f). When the rentals for the structures at MOPT has been fixed based on the present market value of the structure as arrived by the Valuer, in line with the stipulation contained in the Land Policy Guidelines, prescribing rentals for the various structures of KOPT at KDS and HDC based on the Depreciated Replacement Cost of improvement Method does not appear to reflect the market value of the structures. At the same time, if only the rentals for the land is revised based on its market value and the rentals for the structures is left untouched, it may lead to an anomalous position where a lessee for an open land would pay increased rentals on account of the updation of land values whereas a lessee of the structure, who enjoys value added services at the structures, as compared to a lessee of an open land, would not be subjected to any increase in his rentals. It has to be recognized that lease rentals for structure will be based not only on the value of the structure but also on the value of land on which it is erected/ constructed. To overcome this anomalous position, it may be necessary to increase the rentals for the structures also at KDS and HDC.
- (g). In this connection, it may be recalled that the KOPT had proposed revision of its rent schedule for land and buildings at Kolkata and at Haldia based on the current cost of replacement in the year 2011. However, since this Authority was not inclined to follow the method proposed by the KOPT for revision for the reasons mentioned in the Order and for the reasons indicated in the preceding paragraph, the lease rentals for the buildings at Kolkata and at Haldia were increased by maximum of 30% on an adhoc basis vide Order no. TAMP/7/2010-KOPT dated 19 January 2011.
- (h). Going by the same reasoning and the methodology, this Authority is inclined to increase the rentals for the structures of KOPT at Kolkata by 40% (being the average increase in rentals for the Lands at KDS) or the increase in rentals of structures sought by KOPT, whichever is lower, on an adhoc basis, in line with the approach adopted during the last review of rentals of KOPT in the year 2011. However, the KOPT is advised to come up with a well analysed proposal within two months from the date of notification of the Order to fix rentals for the structures of KOPT at Kolkata based on the market value as stipulated in the amended Land Policy Guidelines of 2014. The KOPT may, if it so desires, also draw reference from the MOPT Order as indicated earlier, to determine the market value of the structures and rentals thereof. The KOPT is requested to note that the revised rentals to be fixed for the structures of KOPT based on a proposal to be filed by the KOPT, would have a prospective effect and its

validity will be co-terminus to the validity of the rentals fixed in respect of the KOPT lands at KDS.

- (i). With regard to the rentals for the structures of KOPT at Haldia, the average increase in rentals for the Lands at Haldia approved now works out to 10%. However, the average increase in the rentals for the structures at Haldia has been proposed by the Port at about 4% only. Given that quantum of increase in rentals proposed by the Port itself for the structures at Haldia (4%) is less than the quantum of increase in rentals proposed by the Port for the lands at Haldia (10%), it is not appropriate to artificially inflate the rentals for structures. In view of this position, the rentals for the structures at Haldia at the level proposed by the Port are approved. However, it is clarified that approval accorded to the rentals for the structures at Haldia at the level proposed by the Port should not be construed as an incidental approval to the approach adopted by the KOPT to arrive at the rentals for the structures at Haldia, following depreciated replacement cost of improvement method.
- (j). However, the KOPT is advised to come up with a well analysed proposal within two months from the date of notification of the Order to fix rentals for the structures of KOPT at Haldia based on the market value of the structures as stipulated in the Land Policy Guidelines of 2014. The KOPT may, if it so desires, also draw reference from the MOPT Order as indicated earlier, to determine the rentals for the structures based on the market value. The KOPT is requested to note that the revised rentals to be fixed for the structures of KOPT at Haldia based on a proposal to be filed by the KOPT, would have a prospective effect and its validity will be co-terminus to the validity of the rentals fixed in respect of the KOPT lands at HDC.

The Rent Schedule for HDC also prescribes license fee recoverable from Quarters allotted to the concerned. For the stated reasons, this Authority is not in a position to recognize the methodology adopted by KOPT for valuation of quarters and fixation of licence fee therefor. As such, the existing licence fee escalated as of the year 2016 is prescribed.

- (k). A comparative statement showing the rentals fixed for the various structures of KDS in 2011, the rentals prevailing as on 07 April 2016 after updating it with 2% escalation per annum, the rentals as recommended by the Valuer and proposed by the KOPT and the percentage of increase in rentals proposed by KOPT over the rentals prevailing as on 7 April 2016 and rentals approved is attached as **Annex – III**. Similarly, a comparative statement showing the rentals fixed for the various structures of HDC in 2011, the rentals prevailing as on 07 April 2016 after updating it with 2% escalation per annum, the rentals as recommended by the Valuer and proposed by the KOPT and the percentage of increase in rentals proposed by KOPT over the rentals prevailing as on 7 April 2016 and rentals approved is attached as **Annex – IV**.
- (xiv). (a). The existing Schedule of Rent at Haldia also prescribes some miscellaneous rates as listed below, apart from rentals for land and buildings:
  - (i). Permission fee for holding function on port's land.
  - (ii). Licence Fee for the rights of Pisciculture in port's Ponds/ water bodies.
  - (iii). Licence fee for erection of hoarding on port's land.
  - (iv). Way leave licence fee for essential utility service lines like telephone lines, water supply lines, sewerage lines etc., for laying pipelines carrying Crude oil, POL products and other Liquid cargo over or under the ground, and for allowing overheads conveyors and high voltage transmission lines and towers.

- (v). Licence fee for Durgachak Mini Market.
  - (vi). Hawker charges in various bazaars of KOPT.
  - (vii). Licence fee for open and covered space inside Dock Interior Zone for storage of cargo on Ship to Ship basis.
- (b). For the above said miscellaneous tariff items, the Valuer, based on their understanding and prevailing market conditions has proposed the rates. Given that the rates proposed by the Valuer have been recommended by the LAC headed by Deputy Chairman and also since the rates have been approved by the Board of Trustees of KOPT, the rates in respect of the above mentioned items are approved as proposed by the Port.
- (c). As brought out above, the existing Schedule of Rent at Haldia prescribes Licence Fee for the rights of Pisciculture in port's Ponds/ water bodies. In the proposed Rent Schedule, the KOPT has proposed to replace this provision with rent/ licence fee for water bodies/ water areas at 50% of the corresponding rate of rent for the abutting area. The proposed provision is in line with the amended Land Policy Guidelines, 2014 and hence, approved.
- (d). (i). In addition to the above, the KOPT has also introduced levy of permission fee for construction/ installation of microwave tower, pole (excluding electric/ telephone line), antenna etc., on land / building at ₹ 30000/- per 100 sq.m per month subject to a minimum payment of ₹ 15000/- per location per month or part thereof. The proposed rate is approved since it is for usage of port property. (ii). Further, the KOPT has also introduced levy of processing fee for scrutiny of proposal of new construction and addition/ alteration of existing approved structures on leasehold premises at ₹ 5000/- per proposal and listing of structures being exempted from payment of the said Processing fee. The port has also proposed a lease deed form and preparation cost of ₹ 5000/- per lease and a re-survey fee for 1<sup>st</sup> acre at ₹ 5000/- and for the area beyond one acre at ₹ 1000/- per acre. The above said provisions proposed by the Port are not for usage of the port property or to facilitate usage of the property by issue of licence. Therefore, the Rent Schedule framed by this Authority need not contain the clauses The proposed notes and the corresponding rates are therefore, not included in the Rent Schedule.
- (e). The licence fee approved for the miscellaneous tariff items at Haldia is attached as **Annex – V**.
- (xv). The KOPT has proposed various notes and conditionalities in the rent Schedule pertaining to HDC. Majority of the notes and conditionalities are seen to be in line with the stipulations contained in the amended Land Policy Guidelines, 2014 and hence approved. Some other notes/ conditionalities are seen to be based on the existing Rent Schedule of HDC and hence, retained. The remaining other notes and conditionalities are discussed below:
- (a). Clause 11.2 (g) of the amended Land Policy Guidelines, 2014 stipulates allotment of land by a Port Trust on nomination basis for establishment of common utilities by local bodies like sewage plant, Government Schools and colleges and hospitals, etc. In addition to the above utilities, the port has also proposed allotment of land on nomination basis to bus terminus, cremation ground, water treatment plant etc. Since the utilities proposed by the Port appear to fall within the scope of common utilities by local bodies, the proposed additional utilities are also approved.
  - (b). Clause 11.2 (h) of the amended Land Policy Guidelines, 2014 stipulates that in cases where any Central Public Sector Undertakings (CPSUs)/ State Public Sector Undertakings (SPSUs)/ 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. In this connection, the port has proposed the following safeguards:

- i). Before allotment, JV is formed.
- ii). The lead promoter (i.e. CPSU/SPSU /Statutory Authority, etc.) is to continue as lead promoter with more than 50% share till the expiry of lease.
- iii). If the share of lead promoter becomes equal to or less than 50% of the total share, it will be treated as a breach.

The provision proposed by the Port is with regard to the lease/ licence agreement to be entered by the Port for allotment of land and not for levy of any fees. Therefore, the Rent Schedule framed by this Authority need not contain the clauses to be inserted in the lease agreements to be entered by the port trust with the concerned parties. It is for the Port to incorporate the safeguard in Lease Agreement ensuring compliance of the Land Policy Guidelines of the Government. The proposed safeguards are therefore, not included in the Rent Schedule.

- (c). The KOPT has incorporated a note on sub-letting in line with Clause 12 (B) of the amended Land Policy Guidelines, 2014. In addition, the KOPT has also proposed that no subletting will be allowed for leases granted on nomination basis and that in case of all existing leases where subletting has been prohibited explicitly, no subletting will be allowed. Since the proposed notes give clarity to the sub-letting aspect, the same is incorporated in the Rent Schedule, as proposed by the Port.
- (d). The KOPT has proposed a note to the effect that Change of use of leased land may be permitted on receipt of prior application subject to such change is in conformity with the Land Use Plan and the covenants of the lease and payment of Higher rate of rent for the new usage as per prevailing updated SOR from the date of change of purpose. 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. Further, Fees equivalent to lease rent (as above) for 6 months and applicable Service Tax is envisaged. Clause 15 (i) of the amended Land Policy Guidelines, 2014 provides for 'change of purpose/ use'. However, no methodology to be followed by the Port in the event of change in the use of leased land has been prescribed in the Land Policy Guidelines. Since the proposed notes gives clarity on the matter relating to change in the use of leased land, the same is incorporated in the Rent Schedule, as proposed by the Port.
- (e). Clause 12 (E) of the amended Land Policy Guidelines, 2014 interalia, stipulates that each lease agreement should specifically provide for surrender of lease, subject to prior notice by the lessee at least 6 (six) months in advance and refund of proportionate upfront premium if the land was leased on upfront basis. Even in existing leases, in cases of premature surrender of lease, proportionate upfront premium is to be refunded by the Port if the land was leased on upfront basis. In this connection, the Port has proposed the following notes:
  - (i). Leased land may be surrendered to KOPT any time after 2 years from the date of commencement of lease with 6 month prior notice period unless otherwise is mentioned in the covenants of the lease. If any lessee wants to surrender within first 2 years

from the date of commencement of the lease, he will have to pay lease rent for 2 years.

- (ii) In case of surrender for leases granted on upfront premium basis, the lessee will get back upfront paid for the unutilised portion of the lease as per the following formula subject to recovery of 2 years rent in case the surrender is made effective before 2 years from the date of commencement of lease: -  
The difference of
  - (a) NPV of original lease period and
  - (b) NPV of the period of the lease enjoyed (or two years whichever is higher). The NPV will be computed at the same base rate of rent and same G-Sec rate, as considered for calculation of NPV for the original lease period, at the time of allotment.
- (iii). In case where the lessee is not able to utilize the entire land leased to him, the portion of the leased premises not required by him should be surrendered and no subletting shall be permitted. In this case, KOPT shall refund proportionate lease rental if allotted on upfront basis by using the formula mentioned at (ii) above.

Clause 12 (E) of the amended Land Policy Guidelines, 2014 provides for 'surrender of leased land'. However, the methodology to be followed by the Port in the event of surrender of leased land has not been prescribed in the Land Policy Guidelines. It is for the KOPT to evolve a methodology to comply with the stipulation contained in Clause 12(E) in a suitable manner. Since the proposed note does not involve levy of any rentals, the Rent Schedule need not contain the proposed note.

- (f). Clause 11.3 (c) of the amended Land Policy Guidelines, 2014 stipulates a provision with regard to renewal of existing leases without renewal option at the end of the lease-term. In addition, the said Clause also stipulates that if the only bidder is the existing lessee, the annual lease rental would be determined on the basis of the latest SOR or the price quoted by the existing lessee in the tender-cum-auction, whichever is higher. The provision of first right will also apply to expired lease (possession has been taken by the Port) also in addition to existing leases. The proposed note deals with the procedure of allotment incase of renewal. It is not seen to be with reference to application of rentals. Therefore, it need not form part of Rent Schedule.
- (g). Clause 10.1 (a) of the amended Land Policy Guidelines, 2014 stipulates provision relating to licence of land inside custom bound area. The said Clause, interalia, stipulates that the land inside custom bond area shall be given on licence basis only upto a maximum period of 11 months through the tender-cum-auction. The clause also stipulates that in cases, where the tender- cum-auction is not possible, land can be allocated on licence basis at the latest SOR and that allotment of land by not resorting to tender-cum- auction methodology should be exercised as an exception. In this backdrop, the Port has proposed a note that Licence of land/ structure within Custom bound area will be allotted on licence basis for a maximum period of 11 months through tender cum auction procedure excepting for storage of cargo, cargo handling gears, flexible hoses, equipment repairing shops of licensed handling agents of KOPT etc where license shall be granted without resorting to tender at the updated SOR rate. Allotment of land either by tender cum auction or through nomination basis is in the domain of the Port. The Rent Schedule need not prescribe

the instances where the port would allot land on nomination basis. The proposed note, therefore, is not approved. The Port may follow the stipulation in the Land Policy Guidelines for allotment of lands.

- (h). The KOPT has proposed a note to the effect that on expiry of initial licence period which was initially granted for a maximum period of 11 months without recourse to tender, the said licence may be renewed by KOPT by treating the same as a case of fresh licence. The KOPT has also proposed that on expiry of the licence period of those licences granted initially through tender cum auction procedure, fresh licence for such plots may be granted through tender cum auction procedure giving first right of refusal to the existing licensee to match the H1 bid provided the said licensee does not have any breach of the licence during the initial period of the licence. The proposed note deals with the procedure of allotment in case of renewal of license. It is not seen to be with reference to application of rentals. Therefore, it need not form part of Rent Schedule.
- (i). The KOPT has proposed a note to the effect that all 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 the instant Rent Schedule and after every year thereafter, and the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year. As per Clause 13 (c) of the amended Land Policy Guidelines, 2014, the Port Trust Board will fix a rate of annual escalation which would not be less than 2%. The proposed note is in line with the said stipulation and hence approved.
- (j). The KOPT has also proposed notes to the effect that all future leases shall have a provision for escalation of the lease rent by 2% per annum or scheduled rent then in force whichever is higher; in case of future Licences, the rate of licence fee will be enhanced automatically as and when the SOR will be revised upward; in case of existing Licences if the scheduled rate of license fees is higher than the license fees being paid by the existing licensee the scheduled rate of licence fees will be applicable straightaway; and in case of existing licences (which have been granted prior to introduction of land policy guidelines 2004 in KOPT without any maximum licence period) if the Schedule Rate of licence fee is lower than the licence fees being paid by the existing licensee, such licensees will continue to pay same rate of licence fee without any escalation till such time the updated SOR becomes higher than such licence fee and that thereafter, such licensees will pay licence fee as per the prevailing SOR

As per the amended Land Policy Guidelines, the Rent Schedule shall be escalated by 2% per annum. The Rent Schedule is subject to revision after every five years. These provisions are reflected in the Rent Schedule by way of conditionalities. The provision proposed by the Port is for the purpose of inclusion in the lease/ licence agreement to be entered by the Port. The Scale of Rates framed by this Authority need not contain the clauses to be inserted in the lease agreements to be entered by the port trust with the concerned parties. It is for the Port to enter into Lease Agreement ensuing compliance of the Rent Schedule and Land Policy Guidelines of the Government. The proposed note is therefore, not included in the Rent Schedule.

- (k). The KOPT has proposed a note with regard to recovery of interest free Security Deposit equivalent to Two Years rent at ₹ 1/- per sq. mtr. Per year in case of lease on upfront basis and Two Years rent as per updated SOR in case of lease on annual lease rent basis. In addition, the port has also proposed recovery of 15% Administrative Deposit. Recovery of Administrative Deposit is an administrative matter of KOPT. There does

not appear to be a need for this Authority to prescribe such a condition. Hence the prescription of Administrative Deposit in the Rent Schedule is not approved.

- (l). For licensing of land / covered space inside Dock Interior Zone for transit storage of import / export cargo, the KOPT has proposed new notes to the effect that for partial surrender, the area to be surrendered will be in the multiple of 1000 sq. mtrs., that the licensee shall, at his own arrangements, display signboards containing name of the licensee, plate no. & validity of licence. The said notes may bring in transparency and hence approved.
  - (m). The KOPT has proposed notes elaborating the payment procedure for GIS based allotment and allotment outside GIS area and charging of simple interest on the outstanding dues. The methodology to be followed by the lessees/ licensees for payment of rentals is an administrative matter of KOPT. There does not appear to be a need for this Authority to prescribe such a condition, since it does not govern prescription of any rate. Hence, the prescription of the said notes in the Rent Schedule is not relevant and hence not approved.
- (xvi). The KOPT has proposed various notes and conditionalities in the rent Schedule pertaining to KDS. Majority of the notes and conditionalities are seen to be in line with the stipulations contained in the Land Policy Guidelines and hence they are approved. Some other notes/ conditionalities are seen to be based on the existing Rent Schedule of KDS and hence, are retained. The remaining other notes and conditionalities are discussed below:
- (a). The KOPT has proposed a note to the effect that SOR with all conditionalities will be applicable to all existing/ future long term leases to that extent which are not contradictory to the covenants of leases, all existing short term leases, all existing monthly leases and all existing/ future licences. The KOPT has also proposed that if the rates of the existing short term leases, existing monthly leases, existing monthly licences, existing/ future 11-month licences and future 5-year licences are found to be higher than the rates of the Schedule of Rent, the existing rates would continue but the conditionalities of this Schedule would be applicable to such occupations immediately. Since the proposed note is in line with Section 49(3) of the MPT Act 1963, the proposed note approved.
  - (b). The KOPT has proposed a note to the effect that all the rates indicated in the SOR shall get automatically escalated by 2.50% per annum after expiry of one year from the effective date of implementation of the instant Rent Schedule and after every year thereafter, and the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year. As per Clause 13 (c) of the Land Policy Guidelines, the Port Trust Board will fix a rate of annual escalation which would not be less than 2%. The proposed note is in line with the said stipulation and hence approved.
  - (c). The KOPT has also proposed notes to the effect that existing rates of all existing short term leases, all existing monthly leases, all existing monthly licences, all existing/ future 11-month licences and all future 5-year licences will also get escalated by 2.5% per annum. However, rate of escalation for existing long term leases will be guided by the lease covenants. The proposed note is approved.
  - (d). The KOPT has proposed notes to govern levy of additional 15% or 20% rental if a plot of land abuts more than one road in case of existing lease deed / license agreement. However, in respect of future leases / licenses even, if a plot of land abuts more than one road that plot of land will not attract additional enhancement of rent / license fee for abutting more than

one road. The proposed note in respect of future leases / licenses is seen to be as per recommendations of Valuation Report. In respect of existing leases / licenses, the port has proposed to continue with the existing arrangement. The proposed notes are approved.

- (e). The rentals for use of land for commercial and residential purpose are more than the rentals for use of land for Industrial purposes, as it emerges from the Valuation Report. The KOPT has proposed to levy 35% additional charges on base rate for future lease / license / compensation for all general non-industrial uses. However, the following organizations are proposed to be exempted from additional charges.
- Govt. and Govt. aided educational Institutions and Research Organization
  - Transport Facilities and related user
  - Govt. and Charitable Hospitals
  - C.F.S. General Storage, Warehousing and Parking (vehicle and container) facilities
  - Office space for its own use of lessee only, on maximum 10% of the allotted land.
  - All public utility projects, Govt. organization/ departments for the purpose of carrying out sovereign / security/ statutory functions,
  - All way leave permissions
- The proposed note is approved.
- (f). Clause 12 (E) of the amended Land Policy Guidelines, 2014 interalia, stipulates that each lease agreement should specifically provide for surrender of lease, subject to prior notice by the lessee at least 6 (six) months in advance and refund of proportionate upfront premium if the land was leased on upfront basis. Even in existing leases, in cases of premature surrender of lease, proportionate upfront premium is to be refunded by the Port if the land was leased on upfront basis. In this connection, the Port has proposed the following notes:
- (i). Leased land may be surrendered to KOPT any time after 2 years from the date of commencement of lease with 6 month prior notice period unless otherwise is mentioned in the covenants of the lease. If any lessee wants to surrender within first 2 years from the date of commencement of the lease, he will have to pay lease rent for 2 years.
- (ii) In case of surrender for leases granted on upfront premium basis, the lessee will get back upfront paid for the unutilised portion of the lease as per the following formula subject to recovery of 2 years rent in case the surrender is made effective before 2 years from the date of commencement of lease: -  
The difference of
- (a) NPV of original lease period and
  - (b) NPV of the enjoyed years of the lease. The NPV will be computed at the same base rate of rent and same G-Sec rate, as considered for calculation of NPV for the original lease period, at the time of allotment.

Clause 12 (E) of the Land Policy Guidelines provides for 'surrender of leased land'. However, the methodology to be followed by the Port in the event of surrender of leased land has not been prescribed in the Land Policy Guidelines. It is for the KOPT to evolve a methodology to comply with the stipulation contained in Clause 12(E) in a suitable manner. Since the

proposed note does not involve levy of any rentals, the Rent Schedule need not contain the proposed note.

- (g). The KOPT has proposed a note to the effect that Change of use of leased land may be permitted on receipt of prior application subject to such change is in conformity with the Land Use Plan and the covenants of the lease and payment of Higher rate of rent for the new usage as per prevailing updated SoR from the date of change of purpose. In case the existing rate is higher than the rate of proposed for New Purpose, the existing rate will continue with annual escalation as per lease agreement. Further, Fees equivalent to lease rent (as above) for 6 months and applicable Service Tax is envisaged. Clause 15 (i) of the amended Land Policy Guidelines, 2014 provides for 'change of purpose/ use'. However, no methodology to be followed by the Port in the event of change in the use of leased land has been prescribed in the Land Policy Guidelines. Since the proposed notes give clarity on the matter relating to change in the use of leased land, the same is incorporated in the Rent Schedule, as proposed by the Port.
- (h). The KOPT has proposed to recover damages for encroachment of its land and structures at 3 times the rate for 1st month of encroachment and 4 times the rate thereafter. Since the levy is penal in nature and also such a levy will deter encroachment, the proposed note is approved.
- (i). The KOPT has proposed a note to the effect of charging of Processing fee for scrutiny of proposal of new construction on the demised land, structures being exempted from payment of the said Processing fee and annual escalation of Processing fee and minimum @ 10% per year. The said provisions are not for usage of port property or to facilitate usage of port property by issue of a license. The Rent Schedule framed by this Authority need not contain the clauses. It is for the Port to enter into Lease Agreement ensuing compliance of the Scale of Rates and Land Policy Guidelines of the Government. The proposed note is therefore, not included in the Rent Schedule.
- (j). The proposed notes at SI no. 20 govern terms and conditions for allotment of very short licences of three months at the discretion of the Port for storage of cargo, empty containers and parking of lorries / trailers and the procedure to be followed for allotment of very short licences. Since the proposed notes are not intended to govern application of rentals and they are only for the purpose of allotment of plots, the said notes are not prescribed in Rent Schedule.
- (k). The KOPT has initially not proposed the rates for advertisement or hoarding at KDS. However, subsequently, the KOPT has proposed a rate of ₹ 3530/- per sq. ft per year towards Licence fee for hoardings for advertisement in Kolkata, Howrah and Dock Zones under KDS. The KOPT has also stated that the proposed rate has the approval of the Board of Trustees of KOPT. The proposed rate is incorporated in the Rent Schedule of KDS.
- (l). The KOPT has proposed a note prescribing rates for way leave charges for the various lands at KDS. It is inferred that the way leave charges are for laying of pipelines / conveyors etc. The rates of rentals proposed by KOPT for the various lands through which pipelines / conveyors pass through do not correlate with the rate of rentals proposed by KOPT for the corresponding land at KDS. Therefore, this Authority is not in a position to approve the proposed way leave charges. However, the KOPT is permitted to levy way leave charges in the manner prescribed in the land Policy guidelines at the rates proposed for the corresponding areas through which pipelines pass.

(xvii). As stated earlier, the KOPT in its proposal has proposed that the SOR is implemented prospectively for the reasons as already brought out earlier. In this connection, the following are to be noted:

(a). At the request of the KOPT, this Authority has extended the validity of the existing Rent Schedule vide its Order dated 30 March 2016 stating, inter alia, that the lease rentals to be fixed for the Lands and Buildings of KOPT at Kolkata and Haldia, based on a proposal to be filed by KOPT in this regard, have to be given a retrospective effect from 7 April 2016, as the Land Policy Guidelines requires this Authority to fix lease rentals for every five years.

(b). Responding to the Order dated 30 March 2016, the KOPT vide its letter dated 03 June 2016 has highlighted the following difficulties if new Rent Schedule is given a retrospective effect from 07 April 2016, and requested whether this authority would be agreeable to revise the SOR prospectively.

(i). Occupants of many land parcels and structures of KOPT under license within Customs bound area, have surrendered or are in the process of surrendering their occupations between 07.04.2016 and the date of effect of the proposed SOR. It would be extremely difficult to realize the difference of licence fees for the aforesaid period.

(ii). KOPT is contemplating to invite tender-cum-auction for allotment of more than 80 vacant land parcels/structures. As per Land Policy Guidelines, 2014, as modified vide ministry's letter dated 17.07.2015, the reserve annual rent/ upfront for any tender-cum-auction is to be fixed on the basis of updated SOR. As such, it is difficult to fix reserve rent for the proposed tender, if revised SOR is given effect retrospectively.

(iii). Since the validity of the SOR has been extended by six months w.e.f. 07.04.2016 by TAMP through the Order under reference, such reserve annual rent / upfront may be fixed on the basis of updated extant SOR. But, in that case, there may be occasions where the highest bid received in such tender-cum-auction may ultimately turn out to be lower than the revised SOR. To safeguard KOPT'S interest, a suitable clause is incorporated in such tender-cum-auction where the successful bidder would have to pay as per revised SOR, in case the rate of revised SOR happens to be higher. Even then, retrospective implementation of the conditionalities of the revised SOR would lead to confusion and ambiguity. This may, in turn, repel prospective tenderers come forward, they may ultimately challenge such fixation of rate of revised SOR retrospectively, superseding the rate obtained through tender-cum-auction.

In addition, such prospective tenderers might not get any opportunity to attend the hearing to be given by TAMP since at that point of time, they might not have become lessee.

(iv). Ld. Estate Officers after adjudicating the damage and rental arrears, may fix the quantum on the basis of the extant updated SOR, as per public Premises (Eviction of Unauthorized Occupants) Act, 1971. Retrospective revision of SOR may lead to recovery of lesser amount than what it should have been.

(v). Retrospective revision of SOR may have issues with Service Tax.

- (vi). In view of the aforesaid difficulties, KOPT may not invite any tender-cum-auction till the new SOR is notified. However, in that case, revenue from Estate may fall and the expenditure on security to protect such vacant land will also increase.
- (c). With reference to the request made by the KOPT, whether this Authority would be agreeable to revise SOR prospectively, if KOPT so proposes at the time of submission of the proposal, the KOPT was informed the following by us vide our letter dated 18 July 2016:
  - (i). The lease rental for Land and Buildings of KDS and HDC of Kolkata Port Trust (KOPT) was last revised by this Authority vide Order No.TAMP/7/2010-KOPT dated 19 January 2011. This Order was notified in Gazette of India on 8 March 2011 vide Gazette No 47. The Schedule of Rent (SOR) came into effect from 07 April 2011 and as indicated in the said Order, the SOR was valid for a period of 5 years i.e. upto 6 April 2016.
  - (ii). The position that the revision of SOR is due from 07 April 2016 is already made known to the KOPT in March 2011 itself. Further, the Land Policy Guidelines requires the revision of lease rental/licence fee once in five years.
  - (iii). Therefore, the KOPT is requested to follow the Land Policy Guidelines.
- (d). However, the KOPT in its proposal dated 29 September 2016 (after issue of our letter dated 18 July 2016) has again reiterated the difficulties that would be faced by it in the event the Rent Schedule is given a retrospective effect from 07 April 2016 and has again requested to grant a prospective effect to its revised Rent Schedule.
- (e). As brought out in the earlier part of the Order, one of the users viz., TIL Limited has made a mention about them approaching the Hon'ble High Court with regard to the re-tendering of plots by KOPT. Incidentally, a copy of the Writ Petition no. 5820(W) of 2017 filed by TIL Limited has also been served upon this Authority as this Authority has also been impleaded as one of the Respondents. Simultaneously, this Authority has also been impleaded as one of the Respondents in the Writ Petition no. 5710 (W) of 2017 filed by Diamond Beverages Private Limited (DBPL).
- (f). The Hon'ble High Court has passed a common Order dated 03 March 2017 disposing Writ Petition no. 5820 (W) of 2017 filed by TIL Limited and Writ Petition no. 5710 (W) of 2017 filed by Diamond Beverages Private Limited. In the said High Court Order, it has been recorded that the Learned Senior Advocate appearing for the KOPT has submitted that KOPT expects a revision in SOR by TAMP very shortly and that the Senior Advocate on instruction from the KOPT has submitted before the Hon'ble Court that the revision of SOR would be made effective from 07 April 2016 and would, therefore, govern the tender.
- (g). Though the KOPT in its proposal dated 29 September 2016 has requested to grant a prospective effect to its revised Rent Schedule, the Learned Senior Advocate appearing for the KOPT and on instruction from KOPT has submitted before the Hon'ble Court that the revision of SOR would be made effective from 07 April 2016.
- (h). In view of the stand taken by the KOPT before the Hon'ble High Court and stand maintained by this Authority in this case with regard to retrospective

application, the revised Rent Schedule approved for the Land and Buildings of KOPT at Haldia and Kolkata would have retrospective effect.

15.1. The revised Rent Schedule for allotment of Land, warehouses and buildings under KDS and the revised Schedule of rent for allotment of land and buildings at HDC alongwith the conditionalities are attached as **Annex – VI** and **VII** respectively.

15.2. The revised Rent Schedules for the land and buildings of KOPT at Kolkata and Haldia will be effective from 07 April 2016 and shall remain valid for a period of 5 years upto 06 April 2021. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

**(T.S. Balasubramanian)**  
Member (Finance)

**Kolkata Port Trust**  
**Comparative position of the Rentals for the land at Kolkata Dock System (KDS)**

(Rs. Per 100 Sq. mtrs)

Sl. No.	Description of Land	Rentals as approved in the year 2011			Rentals escalated @ 2% per annum from April 2012 to April 2016			Rentals as recommended by the Valuer			Rentals as proposed by KOPT			Percentage of increase in rentals proposed by KOPT over existing escalated tariff	
		FIRST BELT	SECOND BELT	% of Difference in the rates of 1st Belt & 2nd Belt as approved by TAMP	FIRST BELT	SECOND BELT	% of Difference in the escalated rates of 1st Belt & 2nd Belt	FIRST BELT	SECOND BELT	% of Difference in the escalated rates of 1st Belt & 2nd Belt	FIRST BELT	SECOND BELT	% of Difference in the rates of 1st Belt & 2nd Belt as proposed by KOPT	FIRST BELT	SECOND BELT
<b>LANDS AT DOCK</b>															
1	Circular Garden Reach Road from Satva Doctor Road to Bascule Bridge.	3756	2972	79%	4147	3269	79%	4859	3887	80%	4859	3887	80%	17%	19%
2	Circular Garden Reach Road from Bascule Bridge to Gate No. 5, N.S.D.	3756	2684	71%	4147	2952	71%	4859	3887	80%	4859	3887	80%	17%	32%
3	Circular Garden Reach Road from Gate No. 5, N.S.D. upto Gate No. 9, N.S.D. (new diversion portion) including lands on the new roads off the road.	3756	2561	68%	4147	2817	68%	4859	3887	80%	4859	3887	80%	17%	38%
4a	Garden Reach Road from Hastings Bridge to Tidal Basin	2239	NA	-NA-	2472	NA	-NA-	4165	-NA-	-NA-	4165	-NA-	-NA-	68%	-NA-
4b	Walgunge	2239	NA	-NA-	2472	NA	-NA-	4407	-NA-	-NA-	4326	-NA-	-NA-	75%	-NA-
5a	Garden Reach Road from Tidal Basin to Gate No. 3, N.S.D.	2407	1890	79%	2658	2079	78%	4165	3332	80%	4165	3332	80%	57%	60%
5b	Brace Bridge Road	2407	NA	-NA-	2658	-NA-	-NA-	4165	-NA-	-NA-	4165	NA	-NA-	57%	-NA-
6	Satva Doctor Road and Gopal Doctor Road	2140	1732	81%	2363	1935	81%	4407	3526	80%	4135	3308	80%	75%	74%
7a	Hide Road	2015	1642	81%	2225	1806	81%	4450	3560	80%	3893	3115	80%	75%	72%
7b	Hide Road Extn. including low level side roads and development roads at Jinirapole.	3724	3033	81%	4112	3336	81%	5421	4337	80%	5421	4337	80%	32%	30%
8	Nimak Mahal Road	2407	1720	71%	2658	1892	71%	4407	3526	80%	4407	3526	80%	66%	86%
9	Goraacha Road, Incinerator Road, Transport Depot Road and the adjoining Roads.	2568	1979	77%	2835	2177	77%	5421	4337	80%	4962	3969	80%	75%	82%
9	Sonapur Road.	4943	3232	65%	4464	3555	80%	4936	3949	80%	4657	3726	80%	4%	5%
11	Oil Installation Road and other roads in Paharpur area.	2675	2140	80%	2953	2354	80%	4126	3301	80%	4126	3301	80%	40%	40%
12a	Remount Road (between Diamond Harbour Road & Bhukailash Road).	3624	2899	80%	4001	3189	80%	5421	4337	80%	5421	4337	80%	35%	36%
12b	Remount Road (between Bhukailash Road & Coal Dock Road).	3624	2898	80%	4001	3188	80%	5421	4337	80%	5421	4337	80%	35%	36%
13	Dock West Road	2015	NA	-NA-	2225	-NA-	-NA-	4450	3560	80%	3893	3115	80%	75%	-NA-
14	Eastern Boundary Road	2140	NA	-NA-	2363	-NA-	-NA-	4716	-NA-	-NA-	4135	-NA-	-NA-	75%	-NA-
15a	Diamond Harbour Road (Western side from Matherhat Bridge to Seamen's House).	4895	3851	79%	5404	4236	78%	6277	5022	80%	6277	5022	80%	16%	19%
15b	Boat Canal & Diamond Harbour Road (Eastern side).	6420	NA	-NA-	7088	-NA-	-NA-	7088	-NA-	-NA-	7088	-NA-	-NA-	0%	-NA-
16	Taratola Road from Diamond Harbour Road to Budge Budge Road and Mint Place	3344	2672	80%	3692	2939	80%	5706	4565	80%	5706	4565	80%	55%	55%
17	Taratola Road from Budge Budge Road to Circular Garden Reach Road	3049	1632	54%	3366	1795	53%	5706	4565	80%	5706	4565	80%	70%	154%
18	Hari Mohan Ghosh Road.	1605	NA	-NA-	1772	-NA-	-NA-	3549	-NA-	-NA-	3105	-NA-	-NA-	75%	-NA-
19a	Ramnagar	1552	NA	-NA-	1714	-NA-	-NA-	3477	-NA-	-NA-	2999	-NA-	-NA-	75%	-NA-
19b	Surman & Afnagar Road.	1338	NA	-NA-	1477	-NA-	-NA-	2955	-NA-	-NA-	2585	-NA-	-NA-	75%	-NA-
20	Sonal Road	2015	NA	-NA-	2225	-NA-	-NA-	3701	-NA-	-NA-	3701	-NA-	-NA-	66%	-NA-
21	Land in KPD, NSD, G.R. Jetty & Coal Dock for purposes other than cargo storage	3745	NA	-NA-	4135	-NA-	-NA-	4838	-NA-	-NA-	4838	-NA-	-NA-	17%	-NA-
22	Land within Dock premises with Hard Stand	4945	NA	-NA-	5460	-NA-	-NA-	6388	-NA-	-NA-	6388	-NA-	-NA-	17%	-NA-
23a	Land inside Kantapukur, Hoboken Depot, Coal Dock Road & R.I.M. Dock Yard.	2140	NA	-NA-	2363	-NA-	-NA-	4736	-NA-	-NA-	4135	-NA-	-NA-	75%	-NA-
23b	Land at Brooklyn Depot	2316	NA	-NA-	2557	-NA-	-NA-	4126	-NA-	-NA-	4126	-NA-	-NA-	61%	-NA-
24	Daighat	2239	NA	-NA-	2472	-NA-	-NA-	4407	-NA-	-NA-	4326	-NA-	-NA-	75%	-NA-
25	Chetta Road	3210	NA	-NA-	3544	-NA-	-NA-	5421	-NA-	-NA-	5421	-NA-	-NA-	53%	-NA-
26	Chetta Station Back Land	1605	NA	-NA-	1772	-NA-	-NA-	2175	-NA-	-NA-	2175	-NA-	-NA-	23%	-NA-
27	Chetta Station Yard plots	1605	NA	-NA-	1772	-NA-	-NA-	2175	-NA-	-NA-	2175	-NA-	-NA-	23%	-NA-
28a	Sonal (old siding area)	2407	NA	-NA-	2658	-NA-	-NA-	4126	-NA-	-NA-	4126	-NA-	-NA-	55%	-NA-
28b	Durgapur (old siding area)	3683	NA	-NA-	4066	-NA-	-NA-	5135	-NA-	-NA-	5135	-NA-	-NA-	26%	-NA-
28c	Coal Berth (old siding area)	3210	NA	-NA-	3544	-NA-	-NA-	4407	-NA-	-NA-	4407	-NA-	-NA-	24%	-NA-
28d	Old Gravel Siding	3210	NA	-NA-	3544	-NA-	-NA-	4407	-NA-	-NA-	4407	-NA-	-NA-	24%	-NA-
28e	Hide Shed Dums (old siding area)	2015	NA	-NA-	2225	-NA-	-NA-	4450	-NA-	-NA-	3893	-NA-	-NA-	75%	-NA-
29f	Dhobialan Container Park	6562	NA	-NA-	7245	-NA-	-NA-	5489	-NA-	-NA-	5489	-NA-	-NA-	-24%	-NA-
<b>LANDS AT KOLKATA</b>															
29	Cossipore area from Gun Foundry Road to Chilpore Lift Bridge	3210	2568	80%	3544	2825	80%	6081	4865	80%	6081	4865	80%	72%	72%
<b>From Chilpore Lift Bridge TO Ahiritola Street</b>															
30a	From Chilpore Lift Bridge to Schalch Street (Koomartooly)	9628	NA	-NA-	10630	-NA-	-NA-	14571	-NA-	-NA-	14571	-NA-	-NA-	37%	-NA-
30b	From Schalch Street (Koomartooly) to Ahiritola Street	8024	NA	-NA-	8859	-NA-	-NA-	12953	-NA-	-NA-	12953	-NA-	-NA-	46%	-NA-
<b>From Ahiritola Street To Nimitollah Burning Ghat Road</b>															
31a	Strand Bank Road from Ahiritola Street to Nimitollah Burning Ghat Road	9628	NA	-NA-	10630	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	27%	-NA-
31b	Nimitollah Burning Ghat Road (North side)	9628	NA	-NA-	10630	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	27%	-NA-
31c	Strand Road from Ahiritola Street to Nimitollah Burning Ghat Road including Maharshi Debendra Road	10698	8557	80%	11811	9413	80%	15046	12037	80%	15046	12037	80%	27%	28%
<b>From Nimitollah Burning Ghat Road To Jorabagan Cross Road</b>															
32a	Strand Road from Nimitollah Burning Ghat Road to Jorabagan Cross Road.	9628	7701	80%	10630	8471	80%	15046	12037	80%	15046	12037	80%	42%	42%
32b	Jorabagan Cross Road (North side), Cross Road Nos. 13 & 16.	9094	NA	-NA-	10041	-NA-	-NA-	12851	10281	80%	12851	-NA-	-NA-	28%	-NA-
32c	Strand Bank Road from Nimitollah Burning Ghat Road to Jorabagan Cross Road.	10698	NA	-NA-	11811	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	14%	-NA-
32d	Cross Road Nos. 13/1, 14, 15 & 17.	9094	NA	-NA-	10041	-NA-	-NA-	11911	-NA-	-NA-	11911	-NA-	-NA-	19%	-NA-
32e	Nimitollah Burning Ghat Road (South side).	10698	NA	-NA-	11811	-NA-	-NA-	12851	-NA-	-NA-	12851	-NA-	-NA-	9%	-NA-
<b>From Jorabagan Cross Road to Adya Sradhya Ghat Road.</b>															
33a	Strand Road from Jorabagan Cross Road to P.C. Tagore Ghat Road.	10698	8557	80%	11811	9413	80%	15046	-NA-	-NA-	15046	12037	-NA-	27%	-NA-
33b	Strand Road from P.C. Tagore Ghat Road to Adya Sradhya Ghat Road.	8024	6429	80%	8859	7062	80%	15046	-NA-	-NA-	15046	12037	-NA-	70%	-NA-
33c	Strand Bank Road from Jorabagan Cross Road to P.C. Tagore Ghat Road.	8024	NA	-NA-	8859	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	52%	-NA-
33d	Strand Bank Road from P.C. Tagore Ghat Road to Adya Sradhya Ghat Road.	8024	NA	-NA-	8859	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	52%	-NA-
33e	Adya Sradhya Ghat Road (North side).	8024	NA	-NA-	8859	-NA-	-NA-	12851	-NA-	-NA-	12851	-NA-	-NA-	45%	-NA-
33f	P.C. Tagore Ghat Road.	8024	NA	-NA-	8859	-NA-	-NA-	12851	-NA-	-NA-	12851	-NA-	-NA-	45%	-NA-
33g	Cross Road No. B.	8024	NA	-NA-	8859	-NA-	-NA-	11911	-NA-	-NA-	11911	-NA-	-NA-	34%	-NA-
33h	Cross Road Nos. 9, 10 & 11.	8024	NA	-NA-	8859	-NA-	-NA-	11911	-NA-	-NA-	11911	-NA-	-NA-	34%	-NA-
33i	Jorabagan Cross Road (South side), Cross Road Nos. 12	8024	NA	-NA-	8859	-NA-	-NA-	12851	-NA-	-NA-	12851	-NA-	-NA-	45%	-NA-
33j	Pathuria Ghat Cross Road	9628	NA	-NA-	10630	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	27%	-NA-

	FIRST BELT	SECOND BELT	% of Difference in the rates of 1st Belt & 2nd Belt as approved by TAMP	FIRST BELT	SECOND BELT	% of Difference in the escalated rates of 1st Belt & 2nd Belt	FIRST BELT	SECOND BELT	% of Difference in the escalated rates of 1st Belt & 2nd Belt	FIRST BELT	SECOND BELT	% of Difference in the rates of 1st Belt & 2nd Belt as proposed by KOPT	FIRST BELT	SECOND BELT
<b>From Adya Sradhya Ghat Road To Jagannath Ghat Road</b>														
34a	7489	5993	80%	8268	6592	80%	15046	12037	80%	14470	11576	80%	75%	76%
34b	8024	NA	-NA-	8859	-NA-	-NA-	13478	-NA-	-NA-	13478	-NA-	-NA-	52%	-NA-
34c	8559	6850	80%	9450	7535	80%	12851	10281	80%	12851	10281	80%	36%	36%
34d	7489	5992	80%	8268	6591	80%	12851	-NA-	-NA-	12851	10281	-NA-	55%	-NA-
34e	7489	NA	-NA-	8268	-NA-	-NA-	11911	9529	80%	11911	-NA-	-NA-	44%	-NA-
<b>Jagannath Ghat Road to Howrah Bridge</b>														
35a	9628	7703	80%	10630	8473	80%	15046	12037	80%	15046	12037	80%	42%	42%
35b	13373	NA	-NA-	14765	-NA-	-NA-	15046	-NA-	-NA-	15046	-NA-	-NA-	2%	-NA-
35c	10698	8561	80%	11811	9417	80%	12694	10155	80%	12694	10155	80%	7%	8%
<b>From Howrah Bridge, Mullick Ghat &amp; Adjoining Area to Calcutta Jetty No. 9</b>														
36a	13373	NA	-NA-	14765	-NA-	-NA-	14765	-NA-	-NA-	14765	-NA-	-NA-	0%	-NA-
36b	13373	10581	79%	14765	11639	79%	15046	12037	80%	15046	12037	80%	2%	3%
36c	13373	10701	80%	14765	11771	80%	15064	12051	80%	15064	12051	80%	2%	2%
37	10698	NA	-NA-	11811	-NA-	-NA-	14633	-NA-	-NA-	14633	-NA-	-NA-	24%	-NA-
38(i)	2675	NA	-NA-	2953	-NA-	-NA-	5375	-NA-	-NA-	5168	-NA-	-NA-	75%	-NA-
38(ii)	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	10004	-NA-	-NA-	9901	-NA-	-NA-	-NA-	-NA-
<b>LANDS AT HOWRAH</b>														
39	26745	21397	80%	29529	23537	80%	13999	-NA-	-NA-	13999	-NA-	-NA-	-53%	-NA-
40	1605	NA	-NA-	1772	-NA-	-NA-	3544	-NA-	-NA-	3101	-NA-	-NA-	75%	-NA-
41	2140	NA	-NA-	2363	-NA-	-NA-	4725	-NA-	-NA-	4135	-NA-	-NA-	75%	-NA-
42a	1873	NA	-NA-	2068	-NA-	-NA-	4136	-NA-	-NA-	3619	-NA-	-NA-	75%	-NA-
42b	1605	NA	-NA-	1772	-NA-	-NA-	3544	-NA-	-NA-	3101	-NA-	-NA-	75%	-NA-
42c	1605	NA	-NA-	1772	-NA-	-NA-	3544	-NA-	-NA-	3101	-NA-	-NA-	75%	-NA-
43	1605	NA	-NA-	1772	-NA-	-NA-	3544	-NA-	-NA-	3101	-NA-	-NA-	75%	-NA-
<b>Grand Foreshore Road River Side</b>														
44a	1605	NA	-NA-	1772	-NA-	-NA-	3544	-NA-	-NA-	3101	-NA-	-NA-	75%	-NA-
44b	1605	NA	-NA-	1772	-NA-	-NA-	3544	-NA-	-NA-	3101	-NA-	-NA-	75%	-NA-
45	1338	NA	-NA-	1477	-NA-	-NA-	2955	-NA-	-NA-	2585	-NA-	-NA-	75%	-NA-
<b>Banastalla Ghat Road</b>														
46a	1338	NA	-NA-	1477	-NA-	-NA-	2954	-NA-	-NA-	2585	-NA-	-NA-	75%	-NA-
46b	1338	NA	-NA-	1477	-NA-	-NA-	2954	-NA-	-NA-	2585	-NA-	-NA-	75%	-NA-
<b>Foreshore Road</b>														
47a	1338	1068	80%	1477	1175	80%	2955	2364	80%	2585	2068	80%	75%	76%
47b	1774	1416	80%	1989	1558	80%	3917	3134	80%	3428	2742	80%	75%	76%
48	4671	NA	-NA-	5167	-NA-	-NA-	7403	-NA-	-NA-	7403	-NA-	-NA-	44%	-NA-
<b>Shalimar Yard</b>														
49a	2140	1713	80%	2363	1884	80%	4725	3780	80%	4135	3308	80%	75%	76%
49b	1386	1111	80%	1530	1222	80%	3061	2449	80%	2678	2142	80%	75%	75%
50	1386	NA	-NA-	1530	-NA-	-NA-	3060	-NA-	-NA-	2678	-NA-	-NA-	75%	-NA-
<b>Foreshore Road (Timber Pond)</b>														
51a	866	NA	-NA-	956	-NA-	-NA-	1100	-NA-	-NA-	1100	-NA-	-NA-	15%	-NA-
51b	636	NA	-NA-	702	-NA-	-NA-	808	-NA-	-NA-	808	-NA-	-NA-	15%	-NA-
52a	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	4743	-NA-	-NA-	4743	-NA-	-NA-	-NA-	-NA-
52b	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	4743	-NA-	-NA-	4743	-NA-	-NA-	-NA-	-NA-
52c	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	13999	-NA-	-NA-	13999	-NA-	-NA-	-NA-	-NA-
53	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	1043	-NA-	-NA-	1043	-NA-	-NA-	-NA-	-NA-
54	752	NA	-NA-	830	-NA-	-NA-	1177	-NA-	-NA-	1177	-NA-	-NA-	42%	-NA-
55	310	NA	-NA-	342	-NA-	-NA-	536	-NA-	-NA-	536	-NA-	-NA-	57%	-NA-
56	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	421	-NA-	-NA-	421	-NA-	-NA-	-NA-	-NA-
57	222	NA	-NA-	245	-NA-	-NA-	245	-NA-	-NA-	245	-NA-	-NA-	0%	-NA-
58	19	NA	-NA-	21	-NA-	-NA-	21	-NA-	-NA-	21	-NA-	-NA-	0%	-NA-
59	19	NA	-NA-	21	-NA-	-NA-	21	-NA-	-NA-	21	-NA-	-NA-	0%	-NA-
60	519	NA	-NA-	573	-NA-	-NA-	814	-NA-	-NA-	814	-NA-	-NA-	42%	-NA-
61	49	NA	-NA-	54	-NA-	-NA-	54	-NA-	-NA-	54	-NA-	-NA-	0%	-NA-
62	268	NA	-NA-	296	-NA-	-NA-	523	-NA-	-NA-	518	-NA-	-NA-	75%	-NA-
63	292	NA	-NA-	322	-NA-	-NA-	322	-NA-	-NA-	322	-NA-	-NA-	0%	-NA-
64	19	NA	-NA-	21	-NA-	-NA-	21	-NA-	-NA-	21	-NA-	-NA-	0%	-NA-
65	1084	NA	-NA-	1197	-NA-	-NA-	1333	-NA-	-NA-	1333	-NA-	-NA-	11%	-NA-
66	310	NA	-NA-	342	-NA-	-NA-	342	-NA-	-NA-	342	-NA-	-NA-	0%	-NA-
67	11	NA	-NA-	12	-NA-	-NA-	13	-NA-	-NA-	13	-NA-	-NA-	7%	-NA-
68	60	NA	-NA-	66	-NA-	-NA-	124	-NA-	-NA-	116	-NA-	-NA-	75%	-NA-
69	184	NA	-NA-	203	-NA-	-NA-	203	-NA-	-NA-	203	-NA-	-NA-	0%	-NA-
70	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	500	-NA-	-NA-	500	-NA-	-NA-	-NA-	-NA-
71	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	1047	-NA-	-NA-	1047	-NA-	-NA-	-NA-	-NA-
72	Not prescribed	Not prescribed	-NA-	Not prescribed	Not prescribed	-NA-	45	-NA-	-NA-	45	-NA-	-NA-	-NA-	-NA-
73	888	NA	-NA-	980	-NA-	-NA-	Not prescribed	-NA-	-NA-	Not prescribed	-NA-	-NA-	-NA-	-NA-
74	888	NA	-NA-	980	-NA-	-NA-	Not prescribed	-NA-	-NA-	Not prescribed	-NA-	-NA-	-NA-	-NA-

## Annex - II

**Kolkata Port Trust**  
**Comparative position of the Rentals for the land at Haldia Dock Complex (HDC)**  
(Rs. Per 100 Sq. mtrs)

Sl. No.	Situation and Description of Land	Rentals as approved in the year 2011	Rentals escalated @ 2% per annum from April 2012 to April 2016	Rentals as recommended by the Valuer	Rentals as proposed by KOPT	Percentage of increase in rentals proposed by KOPT over existing escalated tariff
1	Residential Zone	1250	1380	1604	1604	16%
2	Industrial Zone	905	999	1080	1080	8%
3	Dock Interior (inside Custom bounded area) (Bare Land) *	2202	2431	2628	2628	8%
4	Dock Interior (inside Custom bounded area) (Hard Stand) *	3424	3780	4086	4086	8%
5	Proposed Dock Interior Zone	1713	1891	2044	2044	8%
6	Dock Zone (Bare Land)	1223	1350	1459	1459	8%
7	Dock Zone (Hard Stand)	Not prescribed	Not prescribed	2917	2917	-NA-
8	Commercial Zone for Offices, Banks, Workshops, Repair Shops (excluding automobiles), cold storage, etc.	2309	2549	2918	2918	14%
9	Commercial Zone for Shops, Markets, Nursing Homes, Medical Clinics, Hotels & Restaurants (without bar), Service Stations, Repair Shops (automobiles),	3100	3423	3891	3891	14%
10	Commercial Zone for Cinema	3162	3491	3969	3969	14%
11	Kukrahati	412	455	474	474	4%
12	Panskura	1042	1150	1207	1206	5%

**Notes:**

- 1 If land is taken in a zone other than commercial zone for the purposes as mentioned at Sl. no. 8, 9 and 10, 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charges extra over the rent for the respective zone as per approved Rent Schedule.
- 2 In the event of utilisation of land for mixed purposes i.e. office cum residential, the rent chargeable shall be the simple average of applicable rents for the specific usage.
- 3 \* These rates are not applicable incase of allotment on ship to ship basis for storage of import/ export goods inside Dock Interior Zone.

**Kolkata Port Trust**  
**Comparative position of the Rentals for the structures at Kolkata Dock System (KDS)**

(Rs. Per 100 Sq. mtrs)

	Location & Description of Structure	Monthly Rent as per 2011 Rent Schedule as on 7.4.2011	Updated Monthly Rent after escalating @ 2% per annum as on 7.4.2016	Rentals as recommended by the Valuer and proposed by the KOPT	Percentage of increase in rentals proposed by KOPT over existing escalated tariff	Rentals proposed for approval	Percentage of increase in rentals being approved over existing escalated tariff
1	<b>ARMENIAN GHAT WAREHOUSE</b>						
i	Ground Floor Godowns *	12,163	13429	23501	75%	18800.51	40%
ii	First Floor Godowns *	8,514	9400	16450	75%	13160.20	40%
2	Calcutta Jetty Shed No. 1	12,163	13429	23501	75%	18800.51	40%
3	<b>CANNING WAREHOUSE</b>						
i	Ground Floor Godowns *	12,163	13429	23501	75%	18800.51	40%
ii	First Floor Godowns *	8,514	9400	16450	75%	13160.20	40%
iii	Second Floor Godowns	6,047	6676	11684	75%	9346.93	40%
4	<b>CLIVE WAREHOUSE</b>						
i	Ground Floor Godowns	12,163	13429	23501	75%	18800.51	40%
ii	First Floor Godowns	8,514	9400	16450	75%	13160.20	40%
iii	Second Floor Godowns	6,047	6676	11684	75%	9346.93	40%
5	<b>FAIRLIE WAREHOUSE</b>						
i	Ground Floor Godowns	12,163	13429	23501	75%	18800.51	40%
ii	First Floor Godowns	8,514	9400	16450	75%	13160.20	40%
iii	Second Floor Godowns	6,047	6676	11684	75%	9346.93	40%
6	<b>CANNING WAREHOUSE (ANNEXE)</b>						
i	Ground Floor Godowns *	12163	13429	23501	75%	18800.51	40%
ii	First Floor Godowns *	8514	9400	16450	75%	13160.20	40%
8	<b>Import Warehouse (8 compartments)</b>	12163	13429	23501	75%	18800.51	40%
9	Import Warehouse South.	12163	13429	23501	75%	18800.51	40%
10	Calcutta Jetty Shed No. 4	12163	13429	23501	75%	18800.51	40%
11	Calcutta Jetty Shed No. 5. (Northernmost Bay).	12163	13429	23501	75%	18800.51	40%
12	<b>P-221/2, STRAND BANK ROAD</b>						
i	Ground Floor (Shops).	15976	17639	30868	75%	24694.31	40%
ii	Ground Floor (Godowns).	12163	13429	23501	75%	18800.51	40%
iii	Ground Floor Annexe	6690	7386	12926	75%	10340.82	40%
iv	Second Floor	10137	11192	19586	75%	15668.89	40%
v	Top Floor.	10137	11192	19586	75%	15668.89	40%
13	<b>"A" SHED JAGANNATH GHAT</b>						
i	Ground Floor	10265	11333	14072	24%	14072.00	24%
ii	First Floor	7187	7935	9850	24%	9850.40	24%
iii	Office space on the Top Floor	5132	5666	7036	24%	7036.00	24%
iv	Miscellaneous structure attached to the Warehouse such as Darwans Quarters Cook Houses etc.	6158	6799	8443	24%	8443.20	24%
14	R.D.F. Godowns at Jagannath Ghat Road.	11298	12474	20579	65%	17463.47	40%
15	Jagannath Ghat Godowns	11298	12474	21829	75%	17463.47	40%
16	<b>PATHURIAGHAT WAREHOUSE</b>						
i	Ground Floor Godowns (Compartment Nos. 1 to 5)	9495	10483	18346	75%	14676.55	40%
ii	First Floor Godowns (Compartment Nos. 6 to 10)	6648	7340	9608	31%	9608.00	31%
iii	Ground Floor Pucca Godowns Nos. 12 to 17/2 (C.I.Roof).	9495	10483	18346	75%	14676.55	40%
17	Nimtallah Station Shed.	9792	10811	18920	75%	15135.62	40%
18	<b>SAHEB BAZAR GODOWNS</b>						
i	Nos. 3, 3A, 4 & 4A	8160	9009	15766	75%	12613.02	40%
ii	Godown No. 5	7672	8471	14823	75%	11858.71	40%
19	Ruthala Station Road	7237	7990	13983	75%	11186.33	40%
20	<b>BAGHBAZAR WAREHOUSE</b>						
i	Ground Floor Godown No. 1	6677	7372	13419	82%	10320.73	40%
ii	First Floor Godown No. 2 & 4, access by two wooden ramps	4676	5163	9393	82%	7227.75	40%
21	Cossipore Receiving Shed	4635	5117	9912	94%	7164.38	40%
22	4 shop rooms with verandah at Armenian Ghat	12163	13429	18049	34%	18049.00	34%
23	Shed at Outram Ghat	12163	13429	19319	44%	18800.51	40%
24	<b>OTHER STRUCTURES</b>						
i	Building with pucca roof *	7643	8438	4228	-50%	4228.00	-50%
ii	Building with R.T. and Asbestos roof *	6175	6818	3223	-53%	3223.00	-53%
iii	Building with C.I. roof	4744	5238	2629	-50%	2629.00	-50%
	<b>DOCK</b>						
25	<b>HIDE ROAD GODOWNS</b>						
i	Godowns, enclosed verandah & miscellaneous closed floor space	6670	7364	10338	40%	10338.00	40%
ii	Open sided verandah space	3337	3684	5169	40%	5169.00	40%
26 i	Hoboken sheds (including naval transit sheds)	4635	5117	8955	75%	7164.38	40%
26 ii	Brooklyn T.N. Shed	4120	4549	7762	71%	6368.34	40%
26 iii	Brooklyn T.G. Shed	4294	4741	8150	72%	6637.29	40%
27	Jinjinrapole Sheds	7128	7870	9186	17%	9186.00	17%
			42				
28	<b>Structures/ Rooms In any Zone (not covered within mentioned within zones)</b>						
i	Building with Pucca Roof	7643	8438	5035	-40%	5035.00	-40%
ii	Building with R.T. and Asbestos roof	6175	6818	4028	-41%	4028.00	-41%

iii	Building with C.I. roof	4744	5238	3287	-37%	3287.00	-37%
29	Kantapukur Sheds	4635	5117	8955	75%	7164.38	40%
30	<b>TEA WAREHOUSES</b>						
i	Hide Road Warehouse	4120	4549	7960	75%	6368.34	40%
ii	Sale Tea Warehouse	5088	5618	9023	61%	7864.59	40%
	First Floor Rate 70% of Ground Floor Rate	-	-	6316	-	-	-
	2nd floor and above	-	-	4512	-	-	-
iii	Sale Tea Warehouse (Annexe)	7184	7932	7932	0%	-	-100%
iv	<b>Lybian Depot Warehouse</b>						
a	Ground Floor	6304	6960	11615	67%	9744.18	40%
b	1st Floor	6304	6960	8130	17%	8130.00	17%
c	2nd Floor upwards	6304	6960	6960	0%	6960.13	0%
v	<b>T.T. Sheds *</b>	4564	5039	6960	38%	6960.00	38%
	1st Floor	-	-	4449	-	-	-
vi	<b>T.T. Sheds Extension *</b>	7207	7957	6960	-13%	6960.00	-13%
31	<b>Import Warehouse "A" N.S.D.</b>						
	Ground Floor	3316	3661	6407	75%	5125.58	40%
	1st Floor	3316	3661	4997	36%	4997.00	36%
	2n Floor upwards	3316	3661	3661	0%	-	-100%
	<b>HOWRAH</b>						
32	<b>SHED AT 14 FORESHORE ROAD, RAMKRISTOPUR</b>						
i	Ground Floor Space	3552	3922	6667	70%	5490.37	40%
ii	First Floor Space	2490	2749	4667	70%	3848.83	40%
33	Station Shed (North) Ramkristopur	3640	4019	7033	75%	5626.40	40%
34	Station Shed (South) Ramkristopur	3640	4019	7033	75%	5626.40	40%
35	New Goods Shed Ramkristopur	3640	4019	7033	75%	5626.40	40%
36	Structures at 109, Foreshore Road, Ramkristopur	3687	4071	7124	75%	5699.04	40%
37	Nissen Sheds at 108, Foreshore Road, Ramkristopur	3606	3981	6967	75%	5573.84	40%
38	Small office Building at Timber Pond	1626	1795	3142	75%	2513.33	40%
	<b>BUDGE BUDGE</b>						
39	Budge Budge Godown / Sheds	2972	3281	4370	33%	4370.00	33%
	<b>OTHER STRUCTURE</b>						
40i	Building with pucca roof	-	-	4228	-	4228.00	-
ii	Building with R.T. and Asbestos roof	-	-	3223	-	3223.00	-
iii	Building with C.I. roof	-	-	2629	-	2629.00	-

41 **Gangway and Pontoon of KoPT**

1,28000 (pm L.S)\*\*

42 **Gangway and Pontoon of Party**

9000-per month(L.S)#

\* Land Cost of respective zones to be added for final rate.

\*\*including foreshore occupation charge where Approach and/or back land belongs to KopT only

# including foreshore occupation charge subject to minimum of Rs 27000/- where Approach and/or back land belongs to KopT only

## Annex - IV

## Kolkata Port Trust

## Comparative position of the Rentals for the structures at Haldia Dock Complex (HDC)

(Rs. Per 100 Sq. mtrs)

Sl. No.	Zone, Location & other description	Monthly Rent as per 2011 Rent Schedule as on 7.4.2011	Updated Monthly Rent after escalating @ 2% per annum as on 7.4.2016	Suggested Monthly Rent by valuer and as proposed by the Port	Percentage of increase in rentals being approved over existing escalated tariff
<b>( a )</b>	<b>Pucca Roofed Structure</b>				
( i )	Residential zone	67	73.97	81.00	9%
( ii )	Industrial zone	67	73.97	77.00	4%
( iii )	Dock Interior zone	77	85.01	93.00	9%
( iv )	Dock Zone	77	85.01	93.00	9%
( v )	Commercial Zone	-NA-	-NA-	103.00	-NA-
<b>( b )</b>	<b>AC / CI Roofed Structure</b>				
( i )	Residential zone	54	59.62	63.00	6%
( ii )	Industrial zone	54	59.62	62.00	4%
( iii )	Dock Interior zone	62	68.45	73.00	7%
( iv )	Dock Zone	62	68.45	71.00	4%
( v )	Commercial Zone	-NA-	-NA-	85.00	-NA-
( vi )	Kukrahati	-NA-	-NA-	62.00	-NA-
( c )	Tower Building	120	132.49	140.00	6%
<b>( d )</b>	<b>Quarters / Dormitories</b>				
( i )	Dormitories (pucca roofed)	67	73.97	73.97	0%
( ii )	"A" type quarters	80	88.33	88.33	0%
( iii )	Modified "A" type quarters	80	88.33	88.33	0%
( iv )	"B" type quarters	80	88.33	88.33	0%
( v )	Modified "B" type quarters	80	88.33	88.33	0%
( vi )	"C" type quarters	98	108.20	108.20	0%
( vii )	"D" type quarters	133	146.84	146.84	0%
( viii )	Officer's Hostel	80	88.33	88.33	0%
( ix )	Jawahar Tower	120	132.49	132.49	0%
<b>( e )</b>	Market for perishable good	54	59.62	60.00	1%
<b>( f )</b>	Retail market	67	73.97	76.00	3%
<b>( g )</b>	Shopping centres at Durgachak	54	59.62	61.00	2%
<b>( h )</b>	Shopping centres at Chiranjibpur	54	59.62	61.00	2%
<b>( i )</b>	Township market opposite to Makhan Babu Bazar	38	41.96	44.00	5%
<b>( j )</b>	Township marketing centre (near Helipad ground)	54	59.62	62.00	4%
<b>( k )</b>	Goonties	67	73.97	76.00	3%

**Annex - V**

**III. OTHERS**

Sl. No.	Description	Rate in Rs.
<b>1</b>	<b>Permission Fee</b>	
	(To be levied per day or part thereof)	
	(i). For holding function on land for area occupied upto 40 Sq.M	1000
	(ii). If above occupation continues beyond 3 days	1500
	(i). For holding function on land for area occupied above 40 Sq.M	1500
	(ii). If above occupation continues beyond 3 days	2000
<b>2</b>	Rate of Rent/ Licence Fee for the water bodies/ water areas	50% of the corresponding rate of rent for the abutting land area
<b>3</b>	<b>Rate of Licence Fee for erection of hoarding on KoPT land :</b>	
	(To be levied per calendar year or part thereof)	
	For hoarding upto a maximum size of 10 Sq.M	3000
	For hoarding of size above 10 Sq.M	5000
<b>4</b>	<b>Way-Leave Licence</b>	
(i)	A way-leave licence fee will be charged for essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric lines running on single pole, etc. (To be levied per calendar year or part thereof)	2000
(ii)	For laying pipelines carrying Crude Oil, POL Products and other Liquid Cargo over or under the ground, way-leave licence fee will be charged 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. Incase 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.	-
	For allowing overhead conveyors and high voltage transmission lines and towers, way-leave licence fee will be charged on the basis of the scheduled rent for the area coming in the alignment of the structure	-
<b>5</b>	For Durgachak Mini Market, licence fee (per month per plot measuring about 13.936 Sq.M)	700
<b>6</b>	<b>Recovery of Hawker charges (per sq. meter per day per hawker)</b>	
	- For Bare chatal	2
	- For hardstand chatal	2
<b>7</b>	For licencing of open / covered space inside Dock Interior Zone for storage of import / export goods, the licence fee will be charged at the following rates per 100 Sq.M per Month.	
	<b>Open Space</b>	
	Bare Land	4225
	Hardstand land	6570
	<b>Covered Space</b>	
	Pucca roofed	13917
	AC / CI roofed	10437

## Annex - VI

**Kolkata Port Trust**  
**Rentals for the land at Kolkata Dock System (KDS)**

(Rs. Per 100 Sq. mtrs per month)

Sl. No.	Description of Land	Rentals for 1st Belt	Rentals for 2nd Belt
<b>LANDS AT DOCK</b>			
1	Circular Garden Reach Road from Satya Doctor Road to Bascule Bridge.	4859	3887
2	Circular Garden Reach Road from Bascule Bridge to Gate No. 5; N.S.D.	4859	3887
3	Circular Garden Reach Road from Gate No. 5; N.S.D. upto Gate No. 9, N.S.D. (new diversion portion) including lands on the new roads off the road.	4859	3887
4a	Garden Reach Road from Hastings Bridge to Tidal Basin	4165	-NA-
4b	Watgunge	4326	-NA-
5a	Garden Reach Road from Tidal Basin to Gate No. 3, N.S.D.	4165	3332
5b	Brace Bridge Road	4165	NA
6	Satya Doctor Road and Gopal Doctor Road	4135	3308
7a	Hide Road	3893	3115
7b	Hide Road Extn. including low level side roads and development roads at Jinjirapole.	5421	4337
8	Nimak Mahal Road	4407	3526
9	Goragacha Road, Incinerator Road, Transport Depot Road and the adjoining Roads.	4962	3969
10	Sonarpur Road.	4657	3726
11	Oil Installation Road and other roads in Paharpur area.	4126	3301
12a	Remount Road (between Diamond Harbour Road & Bhuikailash Road).	5421	4337
12b	Remount Road (between Bhuikailash Road & Coal Dock Road).	5421	4337
13	Dock West Road	3893	3115
14	Eastern Boundary Road	4135	-NA-
15a	Diamond Harbour Road (Western side from Majherhat Bridge to Seamen's House).	6277	5022
15b	Boat Canal & Diamond Harbour Road (Eastern side).	7088	-NA-
16	Taratala Road from Diamond Harbour Road to Budge Budge Road and Mint Place	5706	4565
17	Taratala Road from Budge Budge Road to Circular Garden Reach Road	5706	4565
18	Hari Mohan Ghosh Road.	3105	-NA-
19a	Ramnagar	2999	-NA-
19b	Suriman & Alifnagar Road.	2585	-NA-
20	Sonai Road	3701	-NA-
21	Land in KPD, NSD, G.R. Jetty & Coal Dock for purposes other than cargo storage	4838	-NA-
22	Land within Dock premises with Hard Stand	6388	-NA-
23a	Land inside Kantapukur, Hoboken Depot, Coal Dock Road & R.I.M. Dock Yard.	4135	-NA-
23b	Land at Brooklyn Depot	4126	-NA-
24	Daighat	4326	-NA-
25	Chetla Road	5421	-NA-
26	Chetla Station Back Land	2175	-NA-
27	Chetla Station Yard plots	2175	-NA-
28a	Sonai (old siding area)	4126	-NA-
28b	Durgapur (old siding area)	5135	-NA-
28c	20, Coal Berth (old siding area)	4407	-NA-
28d	Old Gravel Siding	4407	-NA-
28e	Hide Shed Dump (old siding area)	3893	-NA-
28f	Dhobitalao Container Park	5489	-NA-
<b>LANDS AT KOLKATA</b>			
29	Cossipore area from Gun Foundry Road to Chitpore Lift Bridge	6081	4865
<b>From Chitpore Lift Bridge To Ahiritola Street</b>			
30a	From Chitpore Lift Bridge to Schalch Street (Koomartooly)	14571	-NA-
30b	From to Schalch Street (Koomartooly) to Ahiritola Street	12953	-NA-
<b>From Ahiritola Street To Nimtollah Burning Ghat Road</b>			
31a	Strand Bank Road from Ahiritola Street to Nimtolla Burning Ghat Road	13478	-NA-
31b	Nimtollah Burning Ghat Road (North side)	13478	-NA-
31c	Strand Road from Ahiritola Street to Nimtollah Burning Ghat Road including Maharshi Debendra Road	15046	12037
<b>From Nimtolla Burning Ghat Road To Jorabagan Cross Road</b>			
32a	Strand Road from Nimtollah Burning Ghat Road to Jorabagan Cross Road.	15046	12037
32b	Jorabagan Cross Road (North side), Cross Road Nos. 13 & 16.	12851	-NA-
32c	Strand Bank Road from Nimtollah Burning Ghat Road to Jorabagan Cross Road.	13478	-NA-
32d	Cross Road Nos. 13/1, 14, 15 & 17.	11911	-NA-
32e	Nimtollah Burning Ghat Road (South side).	12851	-NA-
<b>From Jorabagan Cross Road to Adya Sradhya Ghat Road.</b>			
33a	Strand Road from Jorabagan Cross Road to P.C. Tagore Ghat Road.	15046	12037
33b	Strand Road from P.C. Tagore Ghat Road to Adya Sradhya Ghat Road.	15046	12037
33c	Strand Bank Road from Jorabagan Cross Road to P.C. Tagore Ghat Road.	13478	-NA-
33d	Strand Bank Road from P.C. Tagore Ghat Road to Adya Sradhya Ghat Road.	13478	-NA-
33e	Adya Sradhya Ghat Road (North side).	12851	-NA-
33f	P.C. Tagore Ghat Road.	12851	-NA-
33g	Cross Road No. 8.	11911	-NA-
33h	Cross Road Nos. 9, 10 & 11.	11911	-NA-

Sl. No.	Description of Land	Rentals for 1st Belt	Rentals for 2nd Belt
33i	Jorabagan Cross Road (South side), Cross Road Nos. 12	12851	-NA-
33j	Pathuria Ghat Cross Road	13478	-NA-
<b>From Adya Sradhya Ghat Road To Jagannath Ghat Road</b>			
34a	Strand Road from Adya Sradhya Ghat Road to Jagannath Ghat Road	14470	11576
34b	Strand Bank Road from Adya Sradhya Ghat Road to Jagannath Ghat Road	13478	-NA-
34c	New C.I.T Road (Cross Road No. 5)	12851	10281
34d	Adya Sradhya Ghat Road (South side) Jagannath Ghat Road (North side)	12851	10281
34e	Cross Road No. 6 & 7	11911	-NA-
<b>Jagannath Ghat Road to Howtah Bridge</b>			
35a	Strand Road from Jagannath Ghat Road to Mint Garden	15046	12037
35b	Strand Bank Road from Jagannath Ghat Road to Howrah Bridge	15046	-NA-
35c	Jagannath Ghat Road ( South side )	12694	10155
<b>From Howrah Bridge, Mullick Ghat &amp; Adjoining Area to Calcutta Jetty No. 9</b>			
36a	Strand Bank Road from Howrah Bridge to Mullick Ghat	14765	-NA-
36b	Strand Road near Mullick Ghat Pumping Station	15046	12037
36c	Old Howrah Bridge Approach Road adjacent to the same	15064	12051
37	Land at Chandpal Ghat, Outram Ghat and Babu Ghat	14633	-NA-
38(i)	Land at Tuckta Ghat.	5168	-NA-
38(ii)	Land from Chandpal Ghat to Tukta Ghat	9901	-NA-
<b>LANDS AT HOWRAH</b>			
39	Chandmari Ghat, Howrah Station (Shop rents, long term lease will not be granted).	13999	-NA-
40	Nityadhan Mukherjee Road (Telkal Ghat).	3101	-NA-
41	Strand Road, Howrah.	4135	-NA-
42a	Upper Foreshore Road.	3619	-NA-
42b	Mullick Ghat Road.	3101	-NA-
42c	Cross Road No.1	3101	-NA-
43	Cross Road Nos. 2, 3 & 4.	3101	-NA-
<b>Grand Foreshore Road River Side</b>			
44a	Portion on the north of Banstalla Ghat Road.	3101	-NA-
44b	Portion on the south of Banstalla Ghat Road.	3101	-NA-
45	Chintamoni Dey Bathing Ghat Road.	2585	-NA-
<b>Banstalla Ghat Road</b>			
46a	North side.	2585	-NA-
46b	South side.	2585	-NA-
<b>Foreshore Road</b>			
47a	From Bonbehari Bose Road to Banstalla Ghat Road	2585	2068
47b	From Banstalla Ghat Road to Jagat Banerjee Ghat Road.	3428	2742
48	Jagat Banerjee Ghat Road & Shibpore Ferry Ghat Road.	7403	-NA-
<b>Shalimar Yard</b>			
49a	Foreshore Road East Side	4135	3308
49b	Foreshore Road West Side	2678	2142
50	Duke Road	2678	-NA-
<b>Foreshore Road (Timber Pond)</b>			
51a	High Land	1100	-NA-
51b	Low Land	808	-NA-
52a	Bandhaghat	4743	-NA-
52b	Golabarighat	4743	-NA-
52c	Near Howrah Bridge Pier (Howrah side) area	13999	-NA-
53	Budge Budge	1043	-NA-
54	Roychowk	1177	-NA-
55	Hooghly Point	536	-NA-
56	Falta	421	-NA-
57	Balagarh,	245	-NA-
58	Jellinghum	21	-NA-
59	Gangrachar	21	-NA-
60	Diamond Harbour	814	-NA-
61	Khejuri	54	-NA-
62	Shimuraili	518	-NA-
63	Durgapur	322	-NA-
64	South Khalichar	21	-NA-
65	Baharampur	1333	-NA-
66	Nischintapur	342	-NA-
67	Payaradanga	13	-NA-
68	Saugor	116	-NA-
69	Freshergunj	203	-NA-
70	Moyapur	500	-NA-
71	Swarupgunj	1047	-NA-
72	Nabadwip	45	-NA-

## Kolkata Port Trust

### Rentals for the structures at Kolkata Dock System (KDS)

(Rs. Per 100 Sq. mtrs per month)

	Location & Description of Structure	Rentals
1	<b>ARMENIAN GHAT WAREHOUSE</b>	
i	Ground Floor Godowns *	18800.51
ii	First Floor Godowns *	13160.20
2	Calcutta Jetty Shed No. 1	18800.51
3	<b>CANNING WAREHOUSE</b>	
i	Ground Floor Godowns *	18800.51
ii	First Floor Godowns *	13160.20
iii	Second Floor Godowns	9346.93
4	<b>CLIVE WAREHOUSE</b>	
i	Ground Floor Godowns	18800.51
ii	First Floor Godowns	13160.20
iii	Second Floor Godowns	9346.93
5	<b>FAIRLIE WAREHOUSE</b>	
i	Ground Floor Godowns	18800.51
ii	First Floor Godowns	13160.20
iii	Second Floor Godowns	9346.93
6	<b>CANNING WAREHOUSE (ANNEXE)</b>	
i	Ground Floor Godowns *	18800.51
ii	First Floor Godowns *	13160.20
8	<b>Import Warehouse (8 compartments)</b>	18800.51
9	Import Warehouse South.	18800.51
10	Calcutta Jetty Shed No. 4	18800.51
11	Calcutta Jetty Shed No. 5. (Northernmost Bay).	18800.51
12	<b>P-221/2, STRAND BANK ROAD</b>	
i	Ground Floor (Shops).	24694.31
ii	Ground Floor (Godowns).	18800.51
iii	Ground Floor Annexe	10340.82
iv	Second Floor	15668.89
v	Top Floor.	15668.89
13	<b>"A" SHED JAGANNATH GHAT</b>	
i	Ground Floor	14072.00
ii	First Floor	9850.40
iii	Office space on the Top Floor	7036.00
iv	Miscellaneous structure attached to the Warehouse such as Darwans Quarters Cook Houses etc.	8443.20
14	R.D.F. Godowns at Jagannath Ghat Road.	17463.47
15	Jagannath Ghat Godowns	17463.47
16	<b>PATHURIAGHAT WAREHOUSE</b>	
i	Ground Floor Godowns (Compartment Nos. 1 to 5)	14676.55
ii	First Floor Godowns (Compartment Nos. 6 to 10)	9608.00
iii	Ground Floor Pucca Godowns Nos. 12 to 17/2 (C.I.Roof).	14676.55
17	Nimtallah Station Shed.	15135.62
18	<b>SAHEB BAZAR GODOWNS</b>	
i	Nos. 3, 3A, 4 & 4A	12613.02
ii	Godown No. 5	11858.71
19	Ruthala Station Road	11186.33
20	<b>BAGHBAZAR WAREHOUSE</b>	
i	Ground Floor Godown No. 1	10320.73
ii	First Floor Godown No. 2 & 4, access by two wooden ramps	7227.75
21	Cossipore Receiving Shed	7164.38
22	4 shop rooms with verandah at Armenian Ghat	18049.00
23	Shed at Outram Ghat	18800.51

	48	
24	<b>OTHER STRUCTURES</b>	
i	Building with pucca roof *	4228.00
ii	Building with R.T. and Asbestos roof *	3223.00
iii	Building with C.I. roof	2629.00
	<b>DOCK</b>	
25	<b>HIDE ROAD GODOWNS</b>	
i	Godowns, enclosed verandah & miscellaneous closed floor space	10338.00
ii	Open sided verandah space	5169.00
26 i	Hoboken sheds (including naval transit sheds)	7164.38
26 ii	Brooklyn T.N. Shed	6368.34
26 iii	Brooklyn T.G. Shed	6637.29
27	Jinjinrapole Sheds	9186.00
28	<b>Structures/ Rooms In any Zone (not covered within mentioned within zones)</b>	
i	Building with Pucca Roof	5035.00
ii	Building with R.T. and Asbestos roof	4028.00
iii	Building with C.I. roof	3287.00
29	Kantapukur Sheds	7164.38
30	<b>TEA WAREHOUSES</b>	
i	Hide Road Warehouse	6368.34
ii	Sale Tea Warehouse	7864.59
	First Floor Rate 70% of Ground Floor Rate	-
	2nd floor and above	-
iii	Sale Tea Warehouse (Annexe)	
iv	<b>Lybian Depot Warehouse</b>	
a	Ground Floor	9744.18
b	1st Floor	8130.00
c	2nd Floor upwards	6960.13
v	<b>T.T. Sheds *</b>	6960.00
	1st Floor	-
vi	<b>T.T. Sheds Extension *</b>	6960.00
31	<b>Import Warehouse "A" N.S.D.</b>	
	Ground Floor	5125.58
	1st Floor	4997.00
	2n Floor upwards	
	<b>HOWRAH</b>	
32	<b>SHED AT 14 FORESHORE ROAD, RAMKRISTOPUR</b>	
i	Ground Floor Space	5490.37
ii	First Floor Space	3848.83
33	Station Shed (North) Ramkristopur	5626.40
34	Station Shed (South) Ramkristopur	5626.40
35	New Goods Shed Ramkristopur	5626.40
36	Structures at 109, Foreshore Road, Ramkristopur	5699.04
37	Nissen Sheds at 108, Foreshore Road, Ramkristopur	5573.84
38	Small office Building at Timber Pond	2513.33
	<b>BUDGE BUDGE</b>	
39	Budge Budge Godown / Sheds	4370.00
	<b>OTHER STRUCTURE</b>	
40i	Building with pucca roof	4228.00
ii	Building with R.T. and Asbestos roof	3223.00
iii	Building with C.I. roof	2629.00

41 **Gangway and Pontoon of KoPT** 1,28000 (pm L.S)\*\*

42 **Gangway and Pontoon of Party** 9000-per month(L.S)#

\* Land Cost of respective zones to be added for final rate.

\*\*including foreshore occupation charge where Approach and/or back land belongs to KOPT only

# including foreshore occupation charge subject to minimum of Rs 27000/- where Approach and/or back land belongs to KopT only

43 Licence fee for hoardings for advertisement in Kolkata, Howrah and Dock Zones. 3530.00 per sq. ft per year

**Kolkata Port Trust**  
**Rentals for the structures at Haldia Dock Complex (HDC)**

(Rs. Per 100 Sq. mtrs per month)

Sl. No.	Zone, Location & other description	Rentals
<b>( a )</b>	<b>Pucca Roofed Structure</b>	
( i )	Residential zone	81.00
( ii )	Industrial zone	77.00
( iii )	Dock Interior zone	93.00
( iv )	Dock Zone	93.00
( v )	Commercial Zone	103.00
<b>( b )</b>	<b>AC / CI Roofed Structure</b>	
( i )	Residential zone	63.00
( ii )	Industrial zone	62.00
( iii )	Dock Interior zone	73.00
( iv )	Dock Zone	71.00
( v )	Commercial Zone	85.00
( vi )	Kukrahati	62.00
( c )	Tower Building	140.00
<b>( d )</b>	<b>Quarters / Dormitories</b>	
( i )	Dormitories (pucca roofed)	76.00
( ii )	"A" type quarters	92.00
( iii )	Modified "A" type quarters	91.00
( iv )	"B" type quarters	91.00
( v )	Modified "B" type quarters	91.00
( vi )	"C" type quarters	111.00
( vii )	"D" type quarters	150.00
( viii )	Officer's Hostel	93.00
( ix )	Jawahar Tower	140.00
<b>( e )</b>	Market for perishable good	60.00
<b>( f )</b>	Retail market	76.00
<b>( g )</b>	Shopping centres at Durgachak	61.00
<b>( h )</b>	Shopping centres at Chiranjibpur	61.00
<b>( i )</b>	Township market opposite to Makhan Babu Bazar	44.00
<b>( j )</b>	Township marketing centre (near Helipad ground)	62.00
<b>( k )</b>	Goomties	76.00

**III. OTHERS**

Sl. No.	Description	Rate in Rs.
1	<b>Permission Fee</b>	
	(To be levied per day or part thereof)	
	(i). For holding function on land for area occupied upto 40 Sq.M	1000
	(ii). If above occupation continues beyond 3 days	1500
	(i). For holding function on land for area occupied above 40 Sq.M	1500
	(ii). If above occupation continues beyond 3 days	2000
2	Rate of Rent/ Licence Fee for the water bodies/ water areas	50% of the corresponding rate of rent for the abutting land area
3	<b>Rate of Licence Fee for erection of hoarding on KoPT land :</b>	
	(To be levied per calendar year or part thereof)	
	For hoarding upto a maximum size of 10 Sq.M	3000
	For hoarding of size above 10 Sq.M	5000
4	<b>Way-Leave Licence</b>	
(i)	A way-leave licence fee will be charged for essential utility service lines like telephone lines, water supply lines, sewerage lines, low voltage domestic electric lines running on single pole, etc. (To be levied per calendar year or part thereof)	2000
(ii)	For laying pipelines carrying Crude Oil, POL Products and other Liquid Cargo over or under the ground, way-leave licence fee will be charged 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.	-
	For allowing overhead conveyors and high voltage transmission lines and towers, way-leave licence fee will be charged on the basis of the scheduled rent for the area coming in the alignment of the structure	-
5	For Durgachak Mini Market, licence fee (per month per plot measuring about 13.936 Sq.M)	700
6	Recovery of Hawker charges (per sq. meter per day per hawker)	
	- For Bare chatal	2
	- For hardstand chatal	2
7	For licensing of open / covered space inside Dock Interior Zone for storage of import / export goods, the licence fee will be charged at the following rates per 100 Sq.M per Month.	
	<b>Open Space</b>	
	Bare Land	4225
	Hardstand land	6570
	<b>Covered Space</b>	
	Pucca roofed	13917
	AC / CI roofed	10437

**Annex - VII**  
**Kolkata Port Trust**  
**Rentals for the land at Haldia Dock Complex (HDC)**

(Rs. Per 100 Sq. mtrs per month)

Sl. No.	Situation and Description of Land	Rentals
1	Residential Zone	1604
2	Industrial Zone	1080
3	Dock Interior (inside Custom bounded area) (Bare Land) *	2628
4	Dock Interior (inside Custom bounded area) (Hard Stand) *	4086
5	Proposed Dock Interior Zone	2044
6	Dock Zone (Bare Land)	1459
7	Dock Zone (Hard Stand)	2917
8	Commercial Zone for Offices, Banks, Workshops, Repair Shops (excluding automobiles), cold storage, etc.	2918
9	Commercial Zone for Shops, Markets, Nursing Homes, Medical Clinics, Hotels & Restaurants (without bar), Service Stations, Repair Shops (automobiles), weighbridge, etc.	3891
10	Commercial Zone for Cinema House, Hotel & Restaurant (with Bar), etc.	3969
11	Kukrahati	474
12	Panskura	1206

**Notes:**

- 1 If land is taken in a zone other than commercial zone for the purposes as mentioned at Sl. no. 8, 9 and 10, 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charges extra over the rent for the respective zone as per approved Rent Schedule.
- 2 In the event of utilisation of land for mixed purposes i.e. office cum residential, the rent chargeable shall be the simple average of applicable rents for the specific usage.
- 3 \* These rates are not applicable incase of allotment on ship to ship basis for storage of import/ export goods inside Dock Interior Zone.

## HDC Conditionalities

### NOTES

**(A) For allotment of land / building (other than licensing of land / building inside Dock Interior Zone for storage of import / export cargo).**

**I. Lease**

1. Lease of land / buildings 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 by local bodies like sewage plant, Government Schools and colleges and hospitals, bus terminus, cremation ground, water treatment plant, etc, 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 upto 75% on the annual lease rent arrived at on the basis of updated SoR may be granted to government schools and colleges. Concession in lease rent can be provided by the Port Trust Board as provided under para (ii) below for establishment of common utilities by local bodies like sewage plant, hospitals, bus terminus, cremation ground, water treatment plant, etc 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 firms, refineries etc. may also be granted with the approval of the Central Govt.

**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 where 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, Cesses) or Rs. 20,000/- whichever is higher shall be recovered:

- (i) In case of death of the lessee, 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

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 been 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 lease hold interest only in favour of reputed financial intuitions / scheduled banks subject to KoPT retaining the first charge on them and recovery of fee 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. It is clarified that the original lessee would continue to remain responsible for payment of lease rent and for adherence to the terms and conditions of lease. It is further clarified that 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.
- (iii) In case of all existing leases where subletting has been prohibited explicitly, no subletting will be allowed.

#### **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 is 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. 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 Service 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 his 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 of 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.

**11. 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 Trusts 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.

**II. Licence**

**(1) Outside Custom bond area**

Licence of land/ building outside Custom bound area 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 / structures may also be allotted on licence basis at the latest updated SoR. Besides, other methodology and conditions as are applicable in case of licensing of land inside the Custom bond area will also be applicable.

**III. Other Conditions**

**1. Annual Escalation and revision of SoR:**

- (i) All 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 Rent Schedule and after every year thereafter, and the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year.

## 2. 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, Service Taxes, Cesses, taxes, duties, charges, assessments, outgoings 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.

## 3. 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 @ Re. 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 /structures/quarters on 11 months licence basis, non-interest bearing security deposit equivalent to 3 (three ) month's licence fees ( basic licence fee for land /structures/quarters ) 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/structures/quarters) 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/damages.

## 4. Damages for Encroachment

Without prejudice to other appropriate action being taken, **damages at 3 (Three) times** the respective zonal rate of rent/license 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/license 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/license fee as per prevailing Schedule of Rent (SoR) for the encroached area .

## **5. 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 or not. In case of land allotted on upfront basis, the equivalent annual rent would be calculated on pro-rata basis.

## **6. 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.

## **7. Penal Interest**

- (i) 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 existing licenses and way leave permissions;
  - (b) All future leases, licenses and way leave and other permissions
  - (c) All cases of existing and future occupations under compensation/ occupation charges.
- (ii) The existing leases would however be governed by the provisions of the respective leases.
- (iii) 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 15<sup>th</sup> day of each month as due date for payment for the preceding month for the restored period of lease/license.

- (iv) The 'due date' for the purpose of levy of interest shall be the date as mentioned in the bill / invoice / Demand Notice concerned, excepting for the cases covered under sub clause-(iii) above.

**8. 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.

**(B) For licensing of land / covered space inside Dock Interior Zone for transit storage of import / export cargo:**

The license of land/covered space inside the Dock Interior Zone for storage of import/export cargo may be granted without recourse to tender cum auction procedure at the updated SoR rate under the following terms & conditions : --

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 /covered space 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.	a) 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.  b) For partial surrender, the area to be surrendered will be in the multiple of 1000 sq. mtrs.	
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/ covered space 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 [Item No. I(C)], the licensee shall pay municipal tax, if required and as applicable.	
8.	The license fee prescribed under Item No.III(7) of 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, and 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 [i.e. for land parcel: basic license fee for land parcel for 1 month and/or for structure: basic licence fee for structure for 1 month 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 and / or structure 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 the cargo 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.	(i)	The licence fee, compensation charges, other dues along with the applicable Service Tax shall be paid within the due date specified in the Bills /Invoice or Demand Notice, excepting for the cases covered under sub clause-(iii) below
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.	
15.	The minimum area to be licensed to a single licensee will be 1000 square meters.	

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## **KDS Conditionalities**

### **NOTES**

1. (a) The SoR with all conditionalities will be applicable to –

- all existing/future long term leases to that extent which are not contradictory to the covenants of leases [i.e. in case of 5 yearly rent revision or otherwise, though rate of rent of the extant SoR may have to be applied depending on various factors; but rate of interest on unpaid amount, rate of annual escalation, increase of rate of rent by 15% if the plot abuts more than one road, increase of rate of rent by 15% if the plot is rail served, levy of rent @3.5 times the SOR/ base rent for land allotted to shops, refreshment stalls, petrol pumps and weigh bridge for public use, etc. will be as per covenants of leases],
- all existing short term leases,
- all existing monthly leases and
- all existing /future licences

If the rates of the existing short term leases, existing monthly leases, existing monthly licences, existing/future 11-month licences and future 5-year licences are found to be higher than the rates of the Schedule of Rent, the existing rates would continue but the conditionalities of this Schedule would be applicable to such occupations immediately.

- (b) Land can be leased up to a maximum cumulative period of 30 years by the Port with the approval of the Board. Renewal of leases as grant of fresh lease beyond thirty years and for a maximum cumulative period of 99 years should be recommended by the Port Trust Board after satisfying itself that the same is required to be renewed and that the Port does not require the said land for its own use. Such renewals will be granted through the Empowered Committee mechanism, subject to the approval of the Government, and renewals will be limited to a maximum cumulative period of 99 years.
- (c) Land, if leased out on upfront basis, the upfront shall be calculated on the basis of Net Present Value (NPV) of lease rentals for the entire period of lease taking discount rate of the longest term G-sec rate as per the latest RBI Bulletin in the 1<sup>st</sup> week of every month. In addition, in case of lease of land on upfront basis, Re.1/- per sq.m per year (subject to annual escalation) shall be charged as token annual rent per year or part thereof, during the entire period of lease.
- (d) Land/structure situated within Customs bound area will be allotted on licence basis only. Land/structure situated outside Customs bound area, will be allotted on long term lease basis or licence basis, as the case may be, as per the prevalent policy of the Board of Trustees for the Port of Kolkata.

2. Annual Escalation:

All the rates indicated in the SoR shall get automatically escalated by 2.5% per annum after expiry of one year from the effective date of implementation of this instant Rent Schedule and after every year thereafter, and the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year. Existing rates of all existing short term leases, all existing monthly leases, all existing monthly licences, all existing/future 11-month licences and all future 5-year licences will also get escalated by 2.5% per annum. However, rate of escalation for existing long term leases will be guided by the lease covenants.

3. In future, all leases should be given by inviting tender-cum auction except cases otherwise decided by Board:

4. In case of existing long term leases, the rate of rent, annual escalation and rate of interest on unpaid amount will be governed by the relevant covenants of the lease.

5.1. (a) In case a plot abuts more than one road and the rates of rent applicable corresponding to such roads are different, then higher of the rates will be taken while computing the rent for the plot.

(b) In future leases/licences, even if a plot of land abuts more than one road, that plot of land will not attract additional enhancement of rent/ licence fee for abutting more than one road. For the existing leases/licences, if a plot abuts more than one road, and if lease deed/licence agreement stipulates so, rent/ licence fee will continue to be increased by 15% or 20%, as the case may be. However, if the existing lease deed/licence agreement is silent about this, payable rent/ licence fee/compensation will be calculated in the following manner:

(i) in case of long term leases, at the time of next 5 yearly rent review and re-fixation, payable rent will be higher of the following:

- updated rent at that point of time including 15% or 20% extra for abutting more than one road + annual escalation as envisaged in the lease deed,
- updated rent of the instant SoR at that point of time without 15% or 20% extra, as there is no such provision in the instant SoR, though the plot abuts more than one road.

(ii) in case of short term leases and monthly leases, on the date of effect of the instant SoR, payable rent will be higher of the following-

- updated rent of the previous SoR at that point of time including 15% extra for abutting more than one road,
- rent as per instant SoR at that point of time without 15% extra, as there is no such provision in the instant SoR, though the plot abuts more than one road.

(iii) in case of monthly licences and 11 month licences, on the date of effect of the instant SoR, payable licence fee will be higher of the following -

- licence fee payable at that point of time including 15% extra for abutting more than one road,
- licence fee as per instant SoR at that point of time without 15% extra, as there is no such provision in the instant SoR, though the plot abuts more than one road.

(iv) in case of compensation subsequent to expiry/determination of any kind of lease/licence, on the date of effect of the instant SoR, payable compensation will be higher of the following –

- compensation including 15% extra for abutting more than one road, levied immediately before that date,
- compensation as per instant SoR at that point of time without 15% extra as there is no such provision in the instant SoR though the plot abuts more than one road though the plot abuts more than one road,

if not stipulated otherwise in the lease deed/ licence agreement. If penal compensation is leviable on that date, both the aforesaid figures will be multiplied by 3 (three).

5.2. (a) In future leases/licences, if a plot is railway served, rent/ licence fee will be increased by 15%.

5.3. (a) In future 35% extra will be charged on base rate for lease/licence/compensation for all general non-industrial uses, except the following:

- Govt. and Govt aided educational Institutions and Research organisations
- Transport Facilities and related uses
- Govt. and Charitable Hospitals
- C.F.S, General Storage, Warehousing and Parking (vehicle and container) facilities
- Office space for its own use of lessee only, on maximum 10% of the allotted land.
- All public utility projects, Govt. organisations/ departments for the purpose of carrying out sovereign /security/statutory functions,
- All way leave permissions

Industrial usages include the following (the list, however, is not exhaustive):-

[As per definition given in KoPT's Land Use Plan, "Industrial building" that is to say any building or structure or part thereof used principally for fabrication, assembly and/ or processing of goods and materials of different kinds. Such building shall include laboratories, power plants, smoke houses, refineries, gas plants, mills, dairies, factories and workshops;]

For the existing leases/licences, if a plot used for the petrol pump, retail outlet and public weigh bridges and if lease deed/licence agreement stipulates so, rent/ licence fee will continue to be increased 3.5 times the base rent/based SoR, as the case may be. However, if the existing lease deed/licence agreement is silent about this, payable rent/ licence fee/compensation will be calculated in the following manner:

- (i) in case of long term leases, at the time of next 5 yearly rent revision, payable rent will be higher of the
  - updated rent at that point of time including escalation for such use + annual escalation as envisaged in the lease deed and
  - updated rent of the instant SoR at that point of time without escalation as there is no such provision in the instant SoR.
- (ii) in case of short term leases and monthly leases, on the date of effect of the instant SoR, payable rent will be higher of the
  - updated rent of the previous SoR at that point of time including escalation for such use and
  - rent as per instant SoR at that point of time without escalation as there is no such provision in the instant SoR.
- (iii) in case of monthly licences and 11 month licences, on the date of effect of the instant SoR, payable licence fee will be higher of the
  - licence fee payable at that point of time including such escalation and
  - licence fee as per instant SoR at that point of time without such escalation as there is no such provision in the instant SoR.
- (iv) in case of compensation subsequent to expiry/determination of any kind of lease/licence, on the date of effect of the instant SoR, payable compensation will be higher of
  - compensation as per instant SoR at that point of time without escalation as there is no such provision in the instant SoR and
  - compensation enhanced to 3.5 times for such purpose), if not stipulated otherwise in the lease deed/ licence agreement.

If penal compensation is leviable on that date, both the aforesaid figures will be multiplied by 3 (three).

6. **Water bodies/ water areas:**

The rate of rent for water bodies/water areas is to be taken as ½ (half) of the corresponding rate of rent applicable for land area. Existing occupations will be guided by their respective lease deed/ licence agreements, if valid.

7. In addition to rent/ licence fee, municipal tax and service tax (or any other tax including GST levied by competent authority), as applicable, shall also be payable by the lessees/licensees/occupants, as will be billed by Kolkata Port Trust.

8. **Security Deposit:**

All lessees/licensees shall deposit and/or maintain non-interest bearing Security Deposit (SD) before taking any lease/ licence in the following manner, where, subsequent to hand over of vacant, peaceful, unencumbered possession of the concerned land and/or structure to KoPT, SD, after adjusting dues of KoPT, if any, will be refunded to the said lessee/licensee:-

(i) **Long term lease on Annual Rent Basis:**

KoPT shall keep SD equivalent to two years' gross rental.

(ii) **Long term lease on upfront Basis:**

KoPT shall keep SD equivalent to two years' gross token rent @ Re.1/- per sq.mtr. per year.

(iii) **Licence initially granted upto 11 months:**

KoPT shall keep SD equivalent to three months' gross licence fee.

In case, licensee chooses to pay the total licence fee towards the initially granted licence period in advance, only one month's gross licence fee is to be deposited as S.D.

(iv) **Licence initially granted for more than 11 months but upto 5 years –**

Licensee would pay SD equivalent to 50% of the offered gross annual licence fee for land and/or structure.

In case, licensee chooses to pay the total licence fee towards the initially granted licence period in advance, only one month's gross licence fee is to be deposited as S.D.

9. **Sub-lease:**

(i) In case of all future long term leases, and existing leases where subletting has been prohibited explicitly, no subletting will be allowed.

(ii). 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. It is clarified that the original lessee would continue to pay the lease rent to KoPT, if the lease has been granted on annual rent basis.

10. **Change of use of leased land:**

Change of use of leased land may be permitted on receipt of prior application, in case such change is in conformity with the Land Use Plan & the lease covenants, subject to payment of -

- higher rates of rent for the new usage as per extant updated SoR, w.e.f. the date of change of purpose (In case, his existing rate is higher than the proposed rate of new purpose, the existing rate will continue with the annual escalation as per lease agreement) and
- Fees equivalent to revised lease rent for 6 months and applicable Service Tax (without Municipal Tax).

11. **Compensation/damages:**

In all cases of expiry/termination/determination of lease/ license or forfeiture of lease/ license (except cases covered under para 17 of these "Notes"), if the lessee/licensee continues to occupy the premises unauthorisedly, the lessee/ licensee is liable to pay compensation/damages for wrongful use and occupation at 3 times the schedule rent (or market rate or last paid rent/licence fee, if so stipulated in the lease deed), till vacant possession is obtained, irrespective of the conditions in lease deed/licence agreement.

12. **Encroachment:**

Encroachment by the existing tenants/licensees will continue to be a breach of tenancy conditions and shall be a ground for termination of tenancy. Damages will be recovered for encroachment of KoPT land and structures in the following manner:-

- a) 3 times of applicable SoR for 1<sup>st</sup> month of encroachment
- b) 4 times of applicable SoR thereafter

This will be without prejudice to the rights and contentions of Kolkata Port Trust to take any other legal action against such encroachment.

13. **Way Leave:**

- (i) For the purpose of way leave charges, the area occupied by single pipeline shall be calculated based on the product of diameter (subject to minimum of 250 mm in diameter) and length of such pipeline(s). In case of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks shall be considered and the respective users shall be billed for pro-rata area on the basis of the diameter and length of the 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 on the basis of the schedule rent.
- (ii) For allowing overhead conveyors, trestle bridge and high voltage transmission lines, way leave licence fee will be charged on the basis of the schedule rent for the area coming in the alignment of the structures.
- (iii) For laying of underground cables like optical fibre cable, telephone cable, electric cable, etc, having diameter up to 250 mm, area shall be calculated considering the minimum diameter 250 mm. For laying of underground cables having diameter

more than 250 mm, area shall be calculated considering the actual diameter. For both the cases, 50% area occupied by such cables shall be considered for the purpose of levy of way leave charges on the basis of schedule rent, provided, possession of surface area is not physically with the users.

- (iv) Schedule of Rent for the purpose of levy of way leave charges shall be as follows, subject to annual escalation as provided in the instant SoR:

Sl. No.	Description of land		Rate (in ₹.)
1.	Land in and around Dock area, as defined by KoPT's Estate Division	(a) Outside Customs bound area	Way leave charges will be levied in the manner prescribed at Clause 14 in the amended Land Policy Guidelines based on the rates as applicable for the corresponding areas through which pipelines pass.
		(b) Within Customs bound area (Zone 21 & 22]	
2.	Land at Budge Budge		
3.	Land at Howrah	(a) Zone 39 and 52c [i.e. Howrah Station & near Rabindra Setu]	
		(b) All other Howrah zones	
4.	Land at Kolkata, as defined by KoPT's Estate Division		
5.	Rabindra Setu		
6.	Below River Bed		
7.	Land at other locations not specified above		

- (v) For construction/installation of tower, pole, antenna etc, way leave fee will be charged @ ₹.50,000/- per 100 sqm. per month, subject to minimum payment of ₹. 25,000/- per location per month (it includes way leave charges for cables and other ancillaries).
- (vi) Way Leave charges will be billed and realised on upfront basis or yearly basis, as may be decided by KoPT Board. In case of realising way leave charges on upfront basis, ₹.1/- per sq.m per annum subject to annual escalation shall be levied every year.

**14. Mutation:**

The following cases will be treated as cases of mutation and for granting such mutation, a fee equivalent to 5% of the 12 months' rent (excluding applicable taxes) or ₹.20,000/- (excluding applicable taxes), whichever is higher, shall be recovered. In case, there are multiple plates in the name of one lessee, mutation charges are to be paid separately for each plate.

- (i). In case of death of a lessee, mutation to his legal heir or legal successor or representative.
- (ii). Mutation consequential to the order of the court or as per new Certificate of Incorporation as per Registrar of Companies.

**15. Licences of the yard/shed within Custom bound area:**

For traffic-related purpose, monthly licence may be granted for allotment of yard/shed within Customs bound area, on nomination basis, @ updated SoR. After expiry/ termination/ determination/ forfeiture of such licences of the yard/shed within Customs bound area, if the licensee continues to occupy it unauthorisedly, the licensee shall be

liable to pay compensation for wrongful use and occupation, at the following rates, till vacant possession is obtained by KoPT:-

- a) First 30 days, 3 times the rate as per prevailing SOR
- b) Next 30 days, 5 times the rate as per prevailing SOR
- c) Continued unauthorized occupation beyond 60 days, 10 times the rate as per prevailing SOR.

16. **Interest:**

Simple Interest @14.25% per annum on the outstanding rent. Licence fee and compensation/ occupational charges and other demands (as to be indicated in bill/invoice/demand notice) will be recovered, if the rent, compensation/ occupational charge is not paid within the due date. The aforesaid rate of interest would be applicable for all existing short term leases, all existing monthly leases, all existing monthly licences, all existing/future 11-month licences, all future 5-year licences, all future long term leases and all compensation bills, except cases of existing long term leases where lease deed stipulates otherwise. However, whether demanded or not, rent/ license fee/ compensation charges for a month would have to be paid by the lessees/ licensees/ occupants on or before 15th day of each succeeding month.

17. In case of delay in payment of upfront premium, original upfront premium along with interest on upfront amount for the delay period or upfront premium recalculated on the prevailing G-sec Rate, whichever is higher may be charged.

18. KOPT, at its discretion, may consider:

- i. Allotment of very short licenses of three months to willing parties for vacant spaces at updated Scheduled rates on first come first served basis, only for the following purposes:-
  - Storage of import/export cargo,
  - Storage of empty containers and
  - Parking of lorries/tailors.
- ii. The available spaces for such short term licenses will be uploaded in KoPT website and will be updated on weekly basis.
- iii. KoPT would arrange for tendering out such spaces within this period of three months without giving any right of refusal to existing parties.
- iv. KoPT may consider granting renewal of such licence for a maximum further period of 3 more months. In such case, the licensees would be required to pay occupational charges at 2 times the updated SoR for the extension period of 3 months.
- v. No further extension to be granted thereafter.
- vi. Available vacant spaces will be published in KoPT website.

19. In case there is any discrepancy/conflict between this instant Schedule of Rent with the Land Policy Guidelines prevailing at any point of time, during the validity of this Schedule, the Land Policy Guidelines will prevail.

20. **Validity of SoR:**

The Rent Schedule is valid for five years from 7 April 2016.

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**SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.**

<b>F. No. TAMP/62/2016-KOPT</b>	<b>Proposal received from Kolkata Port Trust (KOPT) for revision of Schedule of Rent for the Lands and Buildings of KOPT at Kolkata and Haldia.</b>
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A summary of comments received from the users and the response of KOPT thereon are tabulated below:

Sr no.	Comments of users / user organization	Reply of KOPT
<b>1.</b>	<b>Kolkata Port Zone Establishment Welfare Association dated 24.11.2016 (KPZEWA)</b>	
(i).	The proposal of KOPT for revision of their SOR is bald and without any document. A report of Valuer has been disclosed but the documents and/or basis for the valuation has not been disclosed. Unless the documents on the basis of which the valuation has been made are disclosed, it is impossible for any person to assail or deal with the alleged valuation report. The KOPT should be directed to disclose all the documents and source on the basis of which the purported valuation report has been made to enable KPZEWA to deal with the same and in compliance with the principles of natural justice.	It is denied that KOPT proposal is bald and without any document. All the documents relied upon in the analysis are attached to the report of the valuer. [A copy of the entire proposal dated 29 September 2016 and 28 October 2016 which included final report of June 2016 of valuer as received from KOPT was circulated to the users.]
(ii).	Further, the proposal of KOPT was made available to us only on November 18, 2016 along with a Valuation Report & Annexure which runs into more than 200 pages and includes complicated calculations and assumptions. It is impossible to deal with the said proposal and report in such a short span of time. The time to file objection by us is too short and inadequate, and precludes us from even going through the same in detail.  In the circumstances, KPZEWA is filing this preliminary objections and suggestions without prejudice to their rights to file a comprehensive objection and suggestion, after the documents and/or source as stated above are disclosed by KOPT and within such time as may be granted by this Hon'ble Forum.	The grievance aired by the Association runs contrary to its earlier point of non-submissions of any documents. It is further stated that the reply is being given on their second representation dated 28.11.2016, which has been filed after the joint hearing in this case. It may be relevant here to mention that the valuer has made a detailed presentations of his report during the joint hearing held on 24.11.2016.
(iii).	The KOPT has sought revision of its SOR based on the Valuation Report dated July 22, 2016 by one M/s. Colliers International (India) Property Services Private Limited (in short, "Valuation Report"). Para 1.5 of the said valuation report under the heading, "Assumptions and Limiting Conditions"	Transactions data from sub-Registry Office have been collected through official correspondences and the same has been indicated in the valuation report.  The valuation exercise has been done strictly in conformity with the stipulations

	<p>records as follows:-</p> <p><i>“.....Real Estate market in India in unorganized and there is no official market database/source for their prevailing market rates. The information pertaining to the sales/listing data has been obtained from sources deemed to be reliable. However, no written confirmation or verification was made available and hence, our analysis is limited to that extent.”</i></p> <p>On the basis of the aforesaid assumption alone, the valuation report should be ignored and no cognizance should be taken thereof inasmuch as the valuer himself has not taken any responsibility for the valuation.</p>	<p>of Land Policy Guidelines. In this context, KOPT has given the reference to para 4.3 Basis of valuation of the Valuation Report and also the certificate given by the Valuer at page 62 of the Valuation Report.</p> <p>[Letter of valuer]</p>
(v).	<p>The valuation report is otherwise absurd and far from ground reality. For example,</p> <p>(a) Premises No.61/1, Taratalla Road (New Premises No. 1 New Taralalla Road), is a premises adjacent to KOPT land. The lessee of the KOPT land is one Veeline Media which is being referred for ease of identification by KOPT and this Hon'ble Forum. The market value of the said freehold land (measuring 36000 sq.ft. approx.), as on 21/11/2016, was done by the Department of Registration, Government of West Bengal at ₹.185,22,008/-. Therefore, annual valuation at the 6% comes to ₹.11,11,320/- or ₹. 2.57 per sq. ft. per month or ₹.2767/- per 100 sq.mtr. per month (unit used by KOPT). The SOR as on 2011 for Taratalla Road was ₹. 3344/- per 100 sq.mtr. After enhancing at the rate of 2% per year, the current rent is ₹. 3692/- per 100 sq.mtr.</p> <p>The SOR for the said area has been proposed to be enhanced to ₹. 5706/-per 100 sq.mtr.</p> <p>(b) Again, 1/3 (New) Taratalla Road, a freehold land, which is 200 mtr. off the main Taratalla Road, in a lane, measuring about 3344 s.q.ft. was sold at a price of ₹ 18,57,778/- by a Registered Deed dated 26.8.2013. Annual value taken at 6% of the above value comes to ₹ 1,11,467/- . Therefore, monthly rent is ₹ 2.78 per sq.ft. or ₹ 2992/- per 100 sq.mtr.</p> <p>The SOR as on 2011 for Taratalla Road was ₹ 3344/- per 100 sq.mtr. After enhancing at the rate of 2% per year, the current rent is ₹ 3692/- per 100 sq.mtr.</p> <p>The SOR for the said area has been proposed to be enhanced to ₹ 5706/-per 100 sq.mtr.</p>	<p>Two valuations have been submitted by the party where in one case, market value of land is ₹. 1,85,22,008/- for 82.5 decimal of land and in another case, market value is ₹. 79,99,992/- for 33 decimal of land.</p> <p>Land Policy Guidelines, however, considers the “highest rate of actual relevant transactions registered in last three year in the Port’s vicinity.”</p> <p>As per the recommendation of the valuer average rates of transactions in the ports vicinity have been considered to even out the wide variations. In this context the transaction data collected by KOPT from Sub-registry office at Behala vide its letter no Lnd 5696/2 dated 22.06.2016 is annexed. The values in Mahestala Mouza as collected shows values per cottah is much more that selectively disclosed in the representation. It is submitted that instead of taking a higher value, KOPT Board has considered average value in view of the wide variations in land values furnished by the registration office.</p>

	<p>Copies of the documents downloaded from the website of the Department of Registration and the Registered Deed of Conveyance are attached by KPZEWA.</p> <p>(c) From the above documents, it is apparent that the SOR of 2011 was much higher than the value of the properties as on date and the existing SOR should be reduced in tune with the aforesaid documents which are available in public domain. It is pertinent to mention that the property of KOPT is a leasehold property and those properties were freehold properties and it is settled law that for leasehold property the valuation should be discounted by 50%. Due to paucity of time, KPZEWA could not obtain documents from the Department of Registration but taking the said two documents as sample, it is borne out from public documents that the SOR of 2011 was also much higher and should be reduced rather than any increment whatsoever.</p>	
(vi).	<p>All the properties of KOPT are let out to occupiers and there is no absolute transfer of interest in land. The Valuer in the purported report has adopted Direct Sales Comparison Approach, i.e. finding the value of the land and then taking yield at 6%. This is a wrong approach and incorrect way of valuation of leasehold right or to determine the applicable market rent. In his authoritative work, Principles and Practice of Valuation, J A Parks has commented as follows:-</p> <p>“When land is fully developed by buildings erected thereon; when the property is let at a rent from which the fair rent can be ascertained; and when the rent has been proved and is likely to be maintained for years to come, then the rental method of valuation should be applied to determine the market value of the premises”.</p> <p>Therefore, it is respectfully submitted that the valuation report being based on wrong premise and wrong method being adopted should be discarded and no reliance should be placed thereon.</p>	No specific comments have been furnished by the Port.
(vii).	<p>Last SOR was fixed in the year 2011. Since 2011 the property value in Kolkata is stagnant and practically has not increased at all. Taking base year as 2007 and Index at 100, the property Index in October to December 2012 was 209 whereas property Index for January to March 2015 was 212. Therefore, there is no justification, rationale or basis on the part of KOPT to ask any increase in the SOR. On the contrary, the SOR of 2011, being higher than the present market value, should be proportionately reduced. In this</p>	It is submitted that valuation exercise and the rate analysis have been done in terms of the procedures detailed in Revised Land Policy Guidelines, 2014.

	connection, data published by National Housing Bank (wholly owned by Reserve Bank of India) in its website is attached by KPZEWA.	
(viii).	<p><b>Discount due to leasehold</b></p> <p>In the purported valuation, the Valuer has given discount of 15% for leasehold property based on some data taken from “my leasehold, UK”. It is respectfully submitted that reliance on data from United Kingdom was wholly misplaced and incorrect. The tenancy laws in UK and tenancy laws in India are completely different. Further, this issue of discount due to leasehold is a common phenomenon in valuation done by Income Tax authorities which is a reliable source. The Income Tax Appellate Tribunal has consistently allowed 50% or more discount for valuation of leasehold properties vis-à-vis freehold properties. The decisions by ITAT are precedent and on the principles of stare decisis should be followed by this Hon’ble Forum. Therefore, without admitting the correctness of the valuation, the discount due to leasehold property should be allowed at 50%, instead of 15% allowed in the purported report based on UK figures.</p> <p>In this connection, copies of decisions reported in 2012 SCC Online ITAT- 5623 and 2013 SCC Online ITAT – 186 are attached by KPZEWA.</p>	<p>It is submitted that the existing SOR notified by TAMP in 2011 consider a discount factor of 15% for leasehold land when compared to freehold land.</p> <p>In the instant Valuation Report, the valuer has considered 3 different approaches (page no. 24 and 25) to arrive at the proposed discount factor for lease hold in relation to freehold properties. The contention of KPZEWA that it is based only some data taken from “my leasehold, UK” is not correct.</p> <p>[Approach -1 Discount on free hold interest is in the range of 8-17%. In other words, valuer of lease hold interest is nearly 83-92%.</p> <p>Approach -2 The discount factor between free hold value and lease hold value remain 17.4% against 30 years lease time as per the concept of reversion value of any asset. Reversion value refers to the value of property at the expiration of a certain time period.</p> <p>Approach -3 Difference of NPV of service of fixed annual payments for 30 years terms and 99 years term with an annual escalation of 2% and at the discount factor of 8% works out to 17.71%. Any property having long term lease interest of 99 years can be considered as equivalent to freehold interest.</p>
(ix).	<p><b>Yield</b></p> <p>Yield has been taken uniformly at 6% in the purported valuation report. The historical yields in respect of various areas of Kolkata are available in the public domain. The yield in respect of areas where the land of KOPT are situate is about 3 to 3.5%. Therefore, without admitting the correctness of the valuation, the yield has to be taken at 3% of market value. In this connection, a printout taken from the internet and attached by KPZEWA.</p>	No specific comments have been furnished by the Port.
(x).	The proposal by KOPT is arbitrary, unreasonable and without any basis. It is admitted in the purported valuation report that the price of properties in Kolkata has been stable with marginal escalation in the tune of	It is reiterated that the SOR under consideration has been proposed based on a detailed analytical exercise done in conformity with the Land Policy Guidelines.

	<p>2 to 2.5%. However, KOPT in its proposal has prayed for an increase of rent by up to 75 % which is absurd. In any event, KOPT is increasing rent by 2% every year and since 2011, the rent has been already been increased by about 12% (approx). Since the 2011 SOR is much higher than the price prevailing even today, the 2011 SOR should be substantially and proportionately reduced on the basis of the documents disclosed in this objection.</p>	
(xi).	<p>The SOR for one particular area, namely, Harimohan Ghosh Road was fixed in 2011 at ₹.6308/- per 100 sq.mtr. Such rate was challenged and by an Order dated October 14, 2016 bearing No. TAMP/10/2016– KOPT this Hon'ble Forum re-fixed the rent to ₹.1607/- per 100 sq.mtr. Such fixation of SOR in October 2016 has been sought to be increased to ₹.3105/- per 100 sq. mtr., i.e. by 93% in November 2016 which is absurd. The SOR fixed in October 2016 should not be disturbed.</p>	<p>No specific comments have been furnished by the Port.</p>
(xii).	<p>In any event, this also proves that the SOR fixed in 2011 was much higher than the market value and this Hon'ble Forum was kind to interfere and the SOR fixed was 75% lesser than the 2011 SOR.</p>	<p>No specific comments have been furnished by the Port.</p>
(xiii).	<p>In the purported report, it is admitted that the road conditions are bad, there is waterlogging, the major roads are encroached, storm water accumulation, no street lights are there, no culverts, no sewerage system, no drinking water and some discount has been proposed which is wholly inadequate and lesser discount has been allowed to inflate the SOR arbitrarily and unreasonably. Further, there are traffic restrictions. Movement of heavy goods vehicles are allowed only between 12.00 noon and 4.00 p.m., i.e. four hours out of 12 working hours, i.e. 33% of the working hours is available. Therefore, a discount of 66% should be allowed on this score. Some photograph are attached by KPZEWA.</p>	<p>A considered rationalized approach has been adopted by the valuer to factor infrastructure conditions in different zones as detailed in the report. It is further stated that the conditions of roads and other infrastructure is not uniform throughout the entire estate of KOPT. Accordingly, allowing a flat discount may not be realistic.</p>
(xiv).	<p>The purported valuation report suffers from non-application of mind and being contrary to record. The SOR of Hide Road Extension which is a lane off Hide Road has been proposed at ₹.5421/- per 100 sq.mtr. whereas SOR for Hide Road which is a main arterial road, has been proposed at ₹.3893/- which is absurd. If a physical inspection of the roads are taken, the above anomaly will be apparent.</p>	<p>It is stated that in terms of the Land Policy Guidelines, there are several factors which influence the proposed rates. In 2011 Schedule also, such difference exists in rates of Hide Road, Hide Road Extension and Sonapur Road. In the proposed schedule, an attempt has been made to rationalize the rates of these three rental zones.</p>
(xv).	<p>The land zones have been re-grouped arbitrarily and to inflate the SOR illegally. For example, land inside Hoboken Depot being Sl. No.23a to the purported Report which is adjacent to Coal Berth being Sl.No.28c were</p>	<p>It is submitted that no regrouping of rental zones has been proposed. There has not been any change in zoning between Zone 23a and Zone 28c. The contention of KPZEWA is not correct.</p>

	together in the 2011 SOR, but they have been re-grouped to increase the SOR illegally and arbitrarily.	
(xvi).	It is therefore, humbly prayed that Your Honour would be graciously pleased to reject the proposal for revision of SOR by KOPT and frame a Scale of Rates by reducing the 2011 SOR proportionately in accordance with the two documents disclosed in this Objection.	No specific comments have been furnished by the Port.
(xvii).	The basis of valuation of structures / Building in valuation report is totally erroneous and based on wrong premises. Property value of Delhi is higher than Kolkata. Still, the valuer has taken Delhi as the basis with Index at 104 in April 2015 and interpolated it to 2016 as Index 106 which is arbitrary and unreasonable. The yield of 6% considered is also incorrect.	No specific comments have been furnished by the Port. [As seen in the Valuation Report the index was notified in CPWD Notification in April 2015 as 104 for Delhi.]
(xviii).	In the purported report, depreciation has been taken as 50% which is also incorrect, as in the case of 60 years old Building, the Court has permitted depreciation @ 70% by the High Courts. Hence, atleast 80% depreciation is to be allowed as the buildings are mostly about 100 years old. Further, 10% extra land was included in the estimated value wrongfully to inflate SOR.	The rates have been updated with a comparable ratio. It is a total distortion of fact by the party in stating that depreciation has been taken as 50%. In this context, it is submitted that depreciation depends on the condition of building and in several cases, the valuer has allowed 60% or 70% depreciation stating the detailed reasons.  It is further stated that for valuation of any structure, the land component is required to be included. The land does not include ground coverage but also appurtenant land which is required for providing parking place and movement areas.
(xix).	Due to wrong assumptions, the report has gone haywire as though the property price in Kolkata has gone up by only 2%, the valuation report has suggested a hike of 75%.	No specific comments have been furnished by the Port.
(xx).	The occupiers have 2% of rent towards maintenance expenses, however, no maintenance has been done by KOPT on structures/ buildings.	
(xxi).	The increase in SOR as proposed by KOPT is not at all justified and on the contrary since the SOR at 2011 itself is much higher than the price prevailing, even today the 2011 SOR should be substantially and proportionately reduced.	
<b>2.</b>	<b>Kolkata Port Zone Establishment Welfare Association dated 21.12.16 (KPZEWA)</b>	
(i).	The SOR currently in force was notified by TAMP vide Notification no. TAMP/2010/KOPT dated 08.03.2011 and subsequently on the request of KOPT, the validity of the same has been extended by TAMP from time to time, the last being till 31 December 2016 vide Order dated 25.10.2016, notified on 15.11.2016. Accordingly, as on date, the SOR dated 08.03.2011 is operative and binding on	No specific comments furnished by the Port.

	all concerned.	
(ii).	<p>The Policy Guidelines for Land Management 2014- Clarification dated 17.07.2015 issued by Ministry of Shipping, Govt. of India under section III of the Major Port Trust Act 1963 provides inter alia –</p> <p><b><u>Para 11.2 – Fresh Leases</u></b>  <b>(d) “ Land shall be leased through tender-cum-auction methodology through a competitive bidding process over the reserve price of such plots which shall be the updated SOR notified by TAMP.”</b></p> <p><b><u>Para 11.3 – Renewal of Existing / Earlier Leases</u></b>  <b>(c) “The bidding and auction would be only on the reserve price of the land.”</b></p> <p><b><u>Para 13 – Market value of Land and SOR</u></b>  <b>(c) “The port trust would make a proposal to TAMP for fixing latest SOR of the Land. The TAMP would notify the latest SOR of the land after following due process of consultation with state holders within 45 days of receipt of the proposal. The port Trust Board will fix a rate of annual escalation which would not be less than 2%. SR would be re fixed once in every 5 years by TAMP.”</b></p> <p><b>(d) Reserve price for Auction</b>  <b>“The reserve price should be the latest SOR with due escalation for all leases within the outside the Custom Bonded Area.</b></p>	No specific comments furnished by the Port.
(iii).	KOPT has made proposal to TAMP for upward of SOR. On November 24, 2016 TAMP held a joint hearing at Kolkata for fixation of SOR to be effective prospectively some times after December 31, 2016.	Reply to the aforesaid representation duly given by KOPT in the hearing and also written reply on the submission by the said Association has also been furnished. It is reiterated that in the submitted documents by KPZEWA only partial disclosure has been made.
(iv).	KPZEWA have filed a written objection with documents that 2011 SOR is higher than the current market rate and the SOR fixed should be revised by KOPT downwardly and not upwardly as proposed by them.	The rate proposal of KOPT is in terms of the provisions of land policy guidelines and supported by a reasoned analysis.
(v).	TAMP has not finalized the SOR pursuant to the hearing held on November 24, 2016 and has not as yet notified the same.	Nothing to comment.
(vi).	Accordingly, since the latest market value recommended by port trust has been objected to by KPZEWA with documents and since TAMP is yet to notify the new SOR, the recommendation made by KOPT to TAMP with respect to the proposed market value cannot be considered as basis for fixing the reserve price for Tender-cum-Auction and as such the updated SOR with due escalation can only be fixed as the reserve price for tender-cum auction.	<p>It is stated that TAMP while extending the validity of the SOR vide their Order dated 30 March 2016 has recorded “The lease rental to be fixed for Lands and Building of KOPT at Kolkata and Haldia, based on a proposal to be filed by KOPT in this regard may have to be given a retrospective effect by KOPT, as Land Policy Guidelines requires this authority to fix lease rentals every five years.”</p> <p>It was decided by KOPT Board that RSP for lease of duration upto 30 years may not be fixed on the basis of SOR which has expired.</p>

		<p>Accordingly, the KOPT Board has taken a considered decision to fix RSP at proposed SOR.</p> <p>It is further pertinent to mention that Clues 13(b) of the Land Policy Guidelines – Clarification specifies “.....Reserve Price in terms of the annual lease rent would be latest SOR determined in accordance with Para 13(a) and 13( c) and would in no case be less than 6% of the latest market value recommended by the Port Trust.</p> <p>It may further be noted that in terms of the Section 49(3) of Major Port Trust Act the Board may by Auction or by inviting tenders lease any land or shed belonging to it or in its possession or occupation at a rate higher than that provided under sub section (1) (i.e SOR).</p>
(vii).	Shocking and surprisingly KPZEWA found that the KOPT has floated a tender wherein the reserve price has been kept on the basis of proposal made by KOPT to TAMP and not as per the updated SOR notified by TAMP.	
(viii).	The Land Policy Guidelines do not empower KOPT to fix reserve price on the proposal made by KOPT to TAMP. The latest SOR notified by TAMP with due escalation can only be fixed by KOPT as reserved price.	
(ix).	It appears that KOPT is doing something in total disregard to the provisions laid down by the Ministry's Guidelines as well as Authority of TAMP.	No specific comments furnished by the Port.
<b>3.</b>	<b>Kolkata Port Zone Establishment Welfare Association dated 12.02.17 (KPZEWA)</b>	
(i).	The KPZEWA is a trade association of lessees/ tenants/ licensees under KOPT. The KPZEWA is a society registered under the West Bengal Societies Registration Act. The KPZEWA has about 100 members.	The list of the members has never been disclosed by the said Association. Accordingly it is difficult for KOPT to comment whom the said body is representing.
(ii).	The KPZEWA has already filed an objection/suggestion to the proposal made by KOPT in the hearing held on 24.11.2016. The said objection/ suggestion was made in haste and certain important issues were left out. This additional objection/ suggestion is being filed without prejudice to the earlier objection filed and to supplement the same. Since the proposal made by KOPT did not contain any document or basis or particulars for the valuation of the land taken therein, the KPZEWA requested the KOPT to furnish the basis and/or the particulars and/or calculations for arriving at the valuation made in the proposal by them. The disclosure of such document by KOPT is still awaited.	<p>It is stated that the aforesaid association had earlier filed another representation vide their letter dated 27.12.2016 (apart from their representation dated 28.11.2017) on which comments were sought by TAMP vide their letter No. TAMP/62/2016-KOPT dated 11.01.2017 and KOPT furnished comments on the same vide letter No Lnd. 464/F/RFC/XIX (Addl.)/17/ 3432 Dated 18.1.2017. It is not clear when there is specific time limit of disposing of rate proposal in Land Policy Guidelines (i.e 45 days) how several representations from the same party over a period of more than two months can be at all considered.</p> <p>It is denied that KOPT's proposal is without any document or basis. The</p>

		proposal of KOPT is in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis. All the documents relied upon in the analysis are attached to the report of the valuer. In this context it is submitted that the transaction data collected by KoPT from Sub-registry office at Behala vide its letter no Lnd.5696/2 dated 22.06.2016 has already been forwarded to TAMP vide this office letter No. Lnd.464/F/RFC/XIX(Addl)/17/3431 dated 18.1.2017.
(iii).	<p><b>Leasehold and Freehold</b></p> <p>From the report of the Valuer or proposal by KOPT, it appears from para 2.1.4 and para 4.3 that the Valuer has taken the property value of prime residential localities like Alipore, Chetla etc. and discounted the said value at a rate between 5% to 25%.</p> <p>Alipore, Chetla are few of the most posh localities in Kolkata fetching the second highest value only after commercial area of Park Street. A 4 BHK flat at Alipore costs around ₹.4 Crores as can be verified from any renowned real estate site. The premium residential localities cannot be compared with Port Trust land which is essentially used for industrial/warehousing purposes. Taking value of Nariman Point and discounting it by 5% to 25% one cannot arrive at the valuation of industrial land at Thane. It is respectfully submitted that the valuation report or proposal by KOPT is defective ab initio and should be discarded as a whole and KOPT should be directed to submit a fresh proposal on the basis of valuation of adjacent industrial land.</p>	<p>The grievance aired by the Association runs contrary to its earlier point of non submission of any documents. It may be relevant here to mention that the Valuer has made a detailed presentation of his report during the joint hearing held on 24.11.2016.</p> <p>However, it is reiterated that the Valuer has collected rates from Sub registry offices, their own data source, tender values of KOPT i.e as per the methods stipulated in the Land Policy Guidelines. For Dock area, Sale Data from Sub Registry office were collected for the areas of Mahestala, Ramnagar, Behala, Maya Dasi Road, Watgunge, Budge Budge Road and other locations within the defined vicinity for a particular zone. In this context, we would like to bring to your kind attention to para 4.3- Basis of Valuation of the Valuation Report and also the certificate given by the Valuer at page 62 of the Valuation Report.</p>
(iv).	<p>Adjacent to Port Trust land at Taratala Road (Adjoining to State Garage), there are industrial plots/sheds called RIC Industrial Estate, belonging to Rehabilitation Industries Corporation Ltd, a Government of West Bengal Undertaking who let out the same to private parties. The objectors have obtained a copy of a lease deed dated September 11, 2000, the rent for an industrial shed was ₹.3.75 per square feet or ₹.4035/- per 100 sq.mtr. against the proposal by KOPT for nearby shed at the rate of Rs.10338/- per 100 sq. mtr. The proposal by KOPT is totally absurd and should be rejected and KOPT should be directed to make a fresh proposal keeping the old zones intact and on the basis of nearby lands/sheds. A copy of the Lease Deed of RIC Industrial Estate is furnished by KPZEWA.</p> <p>Vide earlier objection filed by KPZEWA, KPZEWA had also annexed a copy of the Registered Deed of Conveyance dated</p>	<p>It is stated that in terms of Land Policy Guidelines 2014 as amended vide letter dated 17.7.2015 specifies at Clause 13.a. (ii) that Highest rate of actual relevant transactions registered in last three years in the Port's vicinity with appropriate escalation factor to be considered for determining SOR. As already stated that relevant transaction data from sub-Registry Office have been collected through official correspondences and the same has been indicated in the valuation report. The transactions referred by the Association relates to a deed of the year 2000, hence the same is not relevant in this case.</p> <p>It is further submitted that the valuation exercise has been done strictly in conformity with the stipulations of Land Policy Guidelines. As per the recommendation of the valuer, average</p>

	<p>26.08.13 with respect to a property sold in the vicinity of the Port Area wherein the monthly rent calculated as per the parameters of KOPT comes to ₹.2992/- per 100 Sq. Mtr against the proposal of KOPT for enhancement to ₹.5706/- per 100 Sq Mtr.</p>	<p>rates of transactions in the port's vicinity have been considered to even out the wide variations. It is submitted that instead of taking the highest rate of actual transactions, as prescribed in the Land Policy Guidelines, KOPT Board has considered average value in view of the wide variations in land values furnished by the registration office.</p>
(iv).	<p>The Valuer of Kolkata Port Trust has taken the value of free hold land which cannot be equated with the Port Trust land which has lot of restrictions and disadvantages, namely –</p> <ul style="list-style-type: none"> <li>• No industrial incentive is available on Port Trust Lands whereas adjoining lands get 75% of the total capital investment as Subsidy from the State Government.</li> <li>• There are restrictions by Calcutta High Court on expansion of existing industries or setting up of new industries in Port Trust lands.</li> <li>• The road conditions and infrastructure in Port Trust lands are in horrible condition as neither Kolkata Port Trust nor the KMC maintains the same which was shown to the respected Chairman and Senior Officials of Kolkata Port Trust from Estate and Engineering Department.</li> <li>• There is no supply of filtered water and there is no sewerage system in Port Trust lands and there is no system of collection/removal of garbage.</li> <li>• There are traffic restrictions on movement of vehicles.</li> <li>• Due to coming up of a flyover on Hoboken Road, Sonapur Road, the existing road width has further narrowed down causing heavy traffic congestion.</li> <li>• Most of the roadsides within Port area are encroached by squatters who use the road as their toilet and the KOPT has never taken any steps either to remove the encroachers or to clean the solid waste lying on the road. The entire environment is stinky and emits foul smell and utterly unhygienic.</li> </ul> <p>All these factors were not taken into consideration in the proposal of KOPT and this Hon'ble Forum may kindly consider these issues and upon prudence check, and allow suitable discounts.</p>	<p>Land within KDS generally have leasehold right for 30 years. The valuler has assessed the factor to vary between 10 - 20% depending on location and therefore, a discount factor of 15% has been considered over the market value of land. It may be relevant to mention here that discount factor of 15% was considered and approved by TAMP while framing the existing SOR also.</p> <p>The contention of the party is not clear and it is not been supported by any document. The valuation has been done by the approved valuer of repute and rates derived following strictly in terms of the stipulations land policy guidelines.</p> <p>It requires mention that in the port area, all permissible usages except residential purpose as per Land Use Plan of the Kolkata Metropolitan Development Corporation are generally allowed. As the land price depends on the usage, the land price having industrial usage, remains on much lower side in comparison to the land having residential or commercial or mixed usage, a discount @ 25% is given for industrial usage uniformly for all areas under KDS. In other words the rate of land would be higher if industrial use is not allowed at all or opted. The existing industrial users, who are purportedly being represented by KPZEWAA would continue to get benefit of lower rate available for industrial use.</p> <p>A considered rationalized approach has been adopted by the Valuer to factor infrastructure conditions in different zones as detailed in the report. It is further stated that the condition of roads and other infrastructure is not uniform throughout the entire estate of KOPT.</p> <p>In the Valuation report it was recorded that the actual site conditions in Port areas are not comparable with the adjacent areas or other parts of the city. Comparatively poor road and drainage condition, absence of street illumination</p>

		<p>in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in while comparing with subject land parcels, by using appropriate adjustment factors (varying from +10% to -25%).</p> <p>It is further stated that already there has been marked improvement in road conditions in respect of several major roads.</p> <p>It requires mention here that KOPT has taken up major road renovation and restoration works in and around Dock area. Work orders for such work have been issued for a total amount of Rs.14.9 crores which will improve the situation in near future. As a move to streamline the traffic flow, KOPT is developing additional parking facilities at 4 locations at a total estimated cost of around Rs.7 crores.</p>
(v).	<p>Re-classifying lands from Zones to Clusters</p> <ul style="list-style-type: none"> <li>The valuation report by KOPT has reclassified the lands arbitrarily and without any basis. The lands of KOPT were classified into zones since time immemorial and such classification was according to road-width and other parameters which was time tested. The reclassification of the lands into clusters is grossly arbitrary, without any rationale or basis or justification and has been made to inflate the SOR illegally, which makes the proposal ex facie bad.</li> <li>For example, Taratala Road from Diamond Harbour Road to Brace Bridge all along was demarcated as Zone 16 and the width of the road is about 50ft excluding dividers and earthen shoulder /walkway on both sides of about 15ft. each.</li> </ul> <p>Whereas Taratala Road from Brace Bridge to Circular Garden Reach Road was demarcated as Zone-17 and width of the road is about 25ft without any divider or earthen shoulder with plenty of encroachments on both sides, practically eating up the shoulders.</p> <ul style="list-style-type: none"> <li>Since last several decades the SOR of Zone-16 and Zone-17 was different and SOR of Zone-17 was much less. Further the second belt of Zone-17 was historically 53% of the first belt.</li> <li>Though the proposal of KOPT ostensibly claims to be based on road-width, but Zone-16 &amp; Zone-17 has been clubbed as Zone-16 arbitrarily. Further all second belts have been taken as 80% of the first belt uniformly which was also arbitrary. As a result the SOR for second belt of Zone-17 which was Rs.1767/- per 100 Sq.Mtr has been proposed to be Rs.4565/- per 100 Sq Mtr. or a</li> </ul>	<p>The Land parcels of KDS have been objectively classified into Clusters depending on their geographical location and other relevant parameters. Such Clusters have been sub-divided into 1 to 4 value areas depending on the infrastructure available which would affect the value of the land. Clusters has been considered for the valuation purpose as per Clause No 13 a(iv) of Land Policy Guidelines as amended vide letter dated 17.7.2015 only.</p> <p>The Zone divisions as in the SOR of 2011 have also been retained and zone wise rates were considered for comparing tender rates as per Clause No 13 a(iii) Land Policy Guidelines as amended vide letter dated 17.7.2015.</p> <p>Hence the contention of the party that zones have been clubbed into clusters is not correct.</p> <p>The detailed response in respect of the two zones (i.e. Zone 16 and Zone 17) in the proposed Schedule has already been furnished before TAMP vide this office letter No. Lnd.464/F/RFC/XIX (Addl)/17/3698 dated February 17, 2017. It was submitted vide that letter that the width of the road at Zone 16 varies from 100ft to 120 ft and in Zone 17 from 100ft to 110 ft. accordingly there is hardly any qualitative difference in Road width to influence the valuation report.</p> <p>As already stated that in terms of the Land Policy Guidelines, there are several factors which influence the proposed rates. In 2011 Schedule also, such difference exists in rates of Hide Road,</p>

	<p>hike of 158% which is absurd.</p> <ul style="list-style-type: none"> <li>Similarly arbitrary clubbing of Zones or Roads have been made in other areas also, for example – Hoboken Road, Old Goragacha Road, Hide Shed dump, Sonapur Road etc.</li> <li>The SOR of Hide Road Extension which is a lane off Hide Road has been proposed at Rs.5421/- per 100 Sq Mtr whereas SOR for Hide Road which is a main arterial Road, has been proposed at Rs.3893/ per 100 Sq Mtr which is absurd.</li> </ul>	<p>Hide Road Extension and Sonapur Road. In the proposed schedule, an attempt has been made to rationalise the rates of these rental zones.</p> <p>It is submitted that no regrouping of rental zones has been proposed. There has not been any change in zoning between Zone 23a and Zone 28c. The contention of WPZEWA is not correct.</p>
(vi)	<p>In the 2011 SOR, no objection or suggestion was filed by any tenant and as a result, KOPT increased the rent by about 400%. Tenants of KOPT in respect of Hari Mohan Ghosh Road which was increased from ₹.555/- per 100 sq.mtr. to ₹.6308/- per 100 sq.mtr., protested against such arbitrary increase. This Hon'ble Forum vide its order no. TAMP/10/2016 – KOPT dated October 16, 2016 was kind enough to reconsider the matter and the rent was re-fixed to ₹.1607/- per 100 sq.mtr. This also proves that the SOR fixed in 2011 was much higher than the then market Value. The objectors submit that the rent fixed by 2011 SOR was higher than even the present market rent and it is stated that the 2011 SOR should be reduced to the current market rent.</p>	<p>It is denied that no objection or suggestion was filed by any tenant and as a result KOPT increased the rent by about 400%. It is submitted that in the Tariff Order dated 19.1.2011 itself, it has been recorded that the concerned users/ organization bodies have made their submissions in the Joint hearing by TAMP on 25.8.2010. It was also recorded in the aforesaid order that some of the user organizations have furnished their additional written comments during joint hearing and after joint hearing. The Tariff order was passed only after obtaining response of KOPT on the points raised by such users.</p> <p>It is further stated that the SOR of 2011 was reasonable and no adverse order against the SOR of 2011 has been passed by any courts of law. The objector in writing has also accepted the validity of SOR of 2011 (copy of their letter dated 12.5.2015 is annexed herewith)</p>
(vii).	<p>In any event, from the site of National Housing Bank it appears that there has been no significant increase in property index respect of property value in Kolkata. The objectors have annexed two documents in their earlier objection to show that industrial land adjacent to Port Trust land currently is Rs.2767/- per 100 sq.mtr. whereas for adjoining land of KOPT, SOR in 2011 was Rs.3344/- per 100 sq.mtr. and KOPT's proposal is for Rs.5706/- per 100 sq.mtr. which is absurd. This point was raised in the oral hearing on 24.11.2016 and representative of KOPT could not give any satisfactory answer.</p>	<p>The valuation has been done by the approved valuer of repute and rates derived following strictly in terms of the stipulations land policy guidelines. It is submitted that in tender held in December 2016 at Reserve prices fixed at proposed SOR, responses in respect of 69 plots out of 90 plots have been received. Hence it can be considered that the proposed SOR is realistic.</p>
(viii)	<p>The report of the Valuer of KOPT has proceeded on non-existent basis and cannot be taken into account. In para 2.1.5 it is alleged that accessibility of Kolkata Dock area is very good and that the Metro project will provide easy connectivity to Dock area. Both the assumptions are incorrect. Firstly, accessibility of Kolkata Dock area is horrible and traffic moves 1 Km. in 30 minutes. Most of the roads within the Port area are encroached and ill maintained. The Metro project will not go up to Dock area as falsely stated in the</p>	<p>It is stated that Kolkata Dock area has 28 zones in the proposed SOR (with several sub zones). The conditions of roads and congestion and other infrastructure factors have been duly recognized by the valuer and considered in the report.</p> <p>The Joka BBD Bag Metro is presently under construction and passing through Dock Area at Zone No 15.</p> <p>It is denied that the report of the valuer of KOPT has proceeded on non-existent basis. It is also denied that the</p>

	report. Further, traffic restrictions have been imposed and during day time. Only four hours are allowed for movement of goods vehicles thereby severely affecting the economic viability of units located in Port area.	assumptions are incorrect.
(ix).	The Authority may conduct a prudent check and allow increase of SOR which is reasonable and in tune with West Bengal Premises Tenancies Act 1997, i.e 5% every 3 years following the principle laid down by the Honorable Supreme Court Of India in the case of Banatwala & Co. Vs LICI & Anr. reported in (2011) 13 SCC 446. In the premises, it is prayed that the proposal for revision made by KOPT should be rejected and KOPT should be directed to prepare a reasonable proposal which may be considered by TAMP.	It is stated that West Bengal Premises Tenancy Act is not applicable for KOPT properties. Accordingly valuation exercise has been carried out strictly in conformity with the stipulations of Land Policy Guidelines which stipulates consideration of a minimum 6% of the market value as annual rental.
<b>4.</b>	<b>Bay Container Terminal Pvt Ltd</b>	
a.	The Lower rate for Sonai, Dhobi Tala, Oil Installation Road, Harimohan Ghosh Road for storage of empty containers which is within 1 Furlong of each other should have the same /identical rates in the SOR.	The rates of different zones of Kolkata Port Trust have been prepared strictly in terms of the stipulations of Land Policy Guidelines 2014 as amended vide letter dated 17.7.2015 from the Ministry. Though the end use of plots may be the same, the values of land need not be the same due to the valuation method specified in the Land Policy Guidelines. Such a differential rates already existed in the earlier SORs also including the one approved by TAMP in March, 2011.
b.	Harimohan Ghosh Road enjoyed a 66% reduction in rate from the proposed rate of March 2011. However for Dhobi Tala Area – the reduction is only 32% from the rate of March 2011. The reduction percentage should be same for all lands having the identical business.	The reduction in the rates of Harimohan Ghosh Road and Dhobitalao were proposed in respect of SOR of 2011 in order to remove inadvertent error, which was not uniform across these two zones. Further, the proposed reduction was w.r.t. 2011 SOR and not related to the instant proposal of revision of SOR. However, rates of each zone have been derived following specific procedure as per Land Policy Guidelines.
c.	The above difference in tariff for the same type of business is a serious ANOMALY because same business in KOPT plots within one furlong of each other cannot have different lease rent. It should be definitely be the same.	Different rates for different zones in respect of KDS land based on valuation cannot be construed as “anomaly”.
<b>5.</b>	<b>CESC Ltd.</b>	
(a).	<u>Rates of Rent</u> It has been generally proposed to increase the rates of rent substantially and in most cases to the extent of 175% of the current rent. That too, such increase is being proposed after a gap of only five years whereas increase to the same extent was made after fifteen years at the time of finalizing SOR in 2011.	The proposal of KOPT is in line with the Land Policy Guidelines announced by the Government of India. In order to provide some relief to the land users, the Board of Trustees of the Port Kolkata has also decided to moderate the proposed increase in rentals, otherwise permitted under the Land Policy guidelines, to 75% of the updated SOR 2011. The contention of CESC that

	<p>Please note that CESC is a public utility supplying electricity to the twin cities of Kolkata and Howrah and its operating expenses and revenue have to be approved by the Regulatory Commission under the provisions of the Electricity Act 2003. The rates of KoPT rent have already undergone steep increase over the years and further increase to the extent proposed would be a huge burden. Accordingly, CESC requested to reconsider the matter in a rational manner.</p>	<p>increase in rate is 175% in most of cases is, therefore, not correct.</p>
(b).	<p><u>Granting of Leases</u> For granting long term lease to public utilities like CESC there should be a mechanism of entering into such lease on a bi-lateral basis with the approval of the Port Trust Board/Empowered Committee instead of inviting tender-cum-auction. This would facilitate expediting the process of granting of lease as well as maintaining the lease rents at a reasonable level for the benefit of CESC consumers.</p>	<p>The procedure prescribed in the Land Policy Guidelines in respect of granting of leases is binding on KOPT. However, this issue has no relation with the proposal under consideration.</p>
(c).	<p><u>Renewal of Lease</u> Existing long term leases with public utilities like CESC should again be renewed bilaterally in a time bound manner instead of inviting tender-cum-auction. Kindly appreciate that unlike other occupied plots, there are vital electricity installations relating to generation and distribution of electricity on the plots of land already leased out to CESC. These installations are critical for electricity distribution network serving the twin metropolis of Kolkata and Howrah.</p> <p>Accordingly, CESC requested to consider that</p> <p>(i). rates of rent to be fixed at the time of lease renewal takes into account the fact that CESC is a public utility occupying such plots of land, in most cases, for ages and therefore the rent should not strictly be market linked.</p> <p>(ii). the process of renewal is made faster rather than taking years together as is the present scenario even after giving prior notices for such renewals and</p> <p>(iii). CESC is not penalized for delay in such renewal without its fault by levying three times of scheduled rent for holding upon the property after expiry of leases.</p>	<p>The contention of CESC has no relation with the rate revision proposal. It is submitted that specific provisions of Land Policy Guidelines are followed by KOPT in the matter concerning, allotment, renewal, etc.</p>
(d).	<p><u>Opening of Past Cases</u> Once KOPT raises bills for rent in terms of the specified lease agreement and the same is settled by the lessee, there should be a restriction on KOPT for reopening the past cases and charging enhanced rates of rent retrospectively from a date which dates back to decades.</p>	<p>KOPT honours the covenants of registered lease agreements during the validity of the lease period, unless any breach of lease terms is observed. Breaches are remedied by following a uniform approach in all such cases.</p>

6.	<p><b>Premiers Tea Limited (PTL)</b></p> <p>The rent schedule proposal is very much on the higher side. PTL is a member associate under Kolkata Port Zone Establishment Welfare Association (KPZEWA) and KPZEWA has already submitted its detailed comments, which also includes PTL.</p>	[KOPT has responded on the comments of KPZEWA]
7.	<p><b>Tamilnadu Generation and Distribution Corporation Ltd (TANGEDCO)</b></p> <p>TANGEDCO is presently utilizing 45114 sq.mtr of bare land (plot) at Dock interior zone of Haldia port of stacking of Thermal Coal. In this regard, it is to be state that, as per TAMP Guidelines Land Policy 2010, the SOR automatically escalate by 2% per annum. Hence, TAMP is requested not to increase the plot rent more that 2% considering the fact that TANGEDCO is a major and long term user of HDC.</p>	<p>The proposed rates of rent for the land in the Dock Interior Zone for licensing of open / covered space for storage of import / export goods have been increased by 2% only on the updated SOR rates of 2016 considering the current demand scenario related to movement of cargo and the prevailing similar rates in other ports of India to maintain the competitiveness of Haldia Dock Complex.</p> <p>TANGEDCO has been allotted 45114 sq.meters of bare land at Dock Interior Zone of HDC for storage of thermal coal for which they are currently paying updated licence fee as per clause III(7) of the Schedule of Rent for land and buildings of KOPT at Haldia. The present licence fee with due updation by 2% per annum on every 7<sup>th</sup> April is ₹. 4142.51 per 100 sq.meters per month. As against this, the proposed rates is ₹. 4225/- per 100 sq. meters per month. The clause-III(7) of the proposed schedule may be referred to. Hence, the proposed rate of licence fee is only 2% higher than the present licence fee being paid by TANGEDCO. Hence the proposed rate for the land being used by TANGEDCO for storage of their thermal coal is in conformity with their request made vide their letter dated 30.11.2016.</p>
(i).	<p><b>The Bengal Chamber of Commerce and Industry (BCCI)</b></p> <p>The Bengal Chamber of Commerce &amp; Industry through its Taratala Initiative Committee has, since year 2004, been representing the major industries consisting of MNC, PSUs, Government and Private establishments operating in KDS in liaising with KOPT, the Government at the Centre and State and their various agencies for all matters relating to lease of KOPT land and for the development of the entire KOPT leased land areas ("KDS area"). BCCI is representing on behalf of its constituent members who have industries on land leased from KOPT in the KDS area. This may be considered as an <b>interim</b></p>	[No subsequent response was received from BCCI]

	<b>response</b> and BCCI may be permitted to submit subsequent responses which they may be receiving from other constituent members of the BCCI.	
(a).	<b>Market Valuation Report</b> The Market Valuation Report of Colliers International (India) Property Services Pvt Ltd (" <b>Report</b> ") as submitted to BCCI cannot and should not be accepted at all and a complete revamp, relook and thorough revision should be made of this Report before it can be considered acceptable. The reasons for rejecting this <b>Report</b> are as follows :	The rates have been derived following specific provisions of Land Policy Guidelines 2014 as amended by letter dated 17.7.2015. It is stated that in Land Policy Guidelines specifies at Clause 13.a. (ii) that Highest rate of actual relevant transactions registered in last three years in the Port's vicinity with appropriate escalation factor to be considered for determining SoR. As per the recommendation of the Valuer average rates of transactions in the ports vicinity have been considered to even out the wide variations. It is submitted that instead of taking a higher value, KoPT Board has considered average value in view of the wide variations in land values furnished by the registration office. It is stated that the proposed revision of rates has been done strictly in conformity with the Land Policy Guidelines. Any factor beyond the aforesaid guidelines has not been considered.
(i).	The Report suggests that in the past few years the value of land in and around KDS area have increased manifold and in some cases has even doubled. The average increase in proposed rent suggested in the Report is between 50 to over 100%. This is ridiculous. In fact, the only change which the Board of KOPT made to the proposed revision in the Schedule of Rent (" <b>SOR</b> ") is to cap the existing rates to 75%. <b>Even the Board of KOPT in its wisdom and assessment have found the doubling in valuation unacceptable.</b> The base fact is that real estate values have reduced during the past five years, properties are not selling, persons are not even "investing" in real estate properties, the real estate companies are having huge unpaid loans which are turning into NPAs. Recently due to the commencement of construction of the Metro Rail and flyover on Budge Budge Road, marginal improvements in real estate prices have been noticed in those areas. It is therefore absolutely clear, and do not need a special valuer to understand this, that real estate prices have not increased at all or have recently seen marginal improvement.	
(ii).	If we look at inflationary trends also, we can easily estimate that inflation itself has not increased value of any goods or other item by more than 20% in the past five years, the same is with real estate.	No specific comments furnished by the Port.
(iii).	The property which had been registered at a price of Rs. 2700 (approx) are being shown at a rent value of above Rs.5000 per 100 sq metres in the proposed SOR.	No specific comments furnished by the Port.
(iv).	Clauses 1.4 and 1.5 of the Report state that the Valuers have based their opinion on discussion with KOPT, public information and informal discussion with government authorities. They have not seen any lease/licence deeds nor the physical properties, and they have not had any discussions with the tenants. In effect their valuation was conducted for KOPT and by KOPT based on inputs from KOPT and on the directions and suggestions of KOPT. Lessees and tenants in	No specific comments furnished by the Port.

	<p>the KDS area are also stakeholders in this valuation exercise and their views suggestions, data, information and documentation should also have been considered so as to have a correct, impartial and transparent assessment of the total considerations which may affect valuations in the KDS area. It therefore appears that the Valuers did not have any connect with ground rules, ground facts and situations. This approach should not be acceptable. The Valuers should meet and take into consideration the views, concerns and objections of the lessees and tenants to get the correct feel of the valuation in the KDS area.</p>	
(v).	<p>In calculating the value, the recent transaction rates have been taken in and around the KDS area. BCCI had pointed out during the Joint hearing that rates at Alipore area, Behala area, Parnasree area and Garden Reach area are completely different as the financial capability, and means of livelihood and quality of population in those areas are also completely different. Averaging these valuation would be skewing the valuation on a macro level. The Land Manager later explained that for purpose of valuation, local area valuation were considered for determining the revised SOR rates in and around those areas. This is not correct. Also the Report does not reflect the views expressed by the Land Manager or the Valuer's approach to valuation for several reasons. Primarily, property dealings in Garden Reach area are not all registered -so one does not get the correct and complete data for all transactions, the properties registered around KDS area are residential property and not industrial property, some minor increase in value of residential properties around KDS areas are due to infrastructure development e.g. Metro Rail, flyover, wider road, larger residential complexes and not due to any inherent increase in value of the property per se – these have no impact on valuation of industrial land within KDS area.</p>	<p>It is submitted that the two valuations were cited by some of the users during the joint hearing held on 24.11.2016. In one case, market value of land is Rs.1,85,22,008/- for 82.5 decimal of land and in another case, market value is Rs.79,99,992/- for 33 decimal of land for Mahestala area. Land Policy guidelines, however, requires consideration of the "highest rate of actual relevant transactions registered in last three years in the Port's vicinity."</p> <p>As per the recommendation of the valuer average rates of transactions in the ports vicinity have been considered to even out the wide variations. In this context the transaction data collected by KoPT from Sub-registry office at Behala vide its letter no Lnd 5696/2 dated 22.06.2016 has already been forwarded to you. The values in Mahestala Mouza as collected shows values per cottah is much more than selectively disclosed by users during the hearing. It is submitted that instead of taking a higher value, KoPT Board has considered average value in view of the wide variations in land values furnished by the registration office. A detailed reply to the aforesaid representation made by Kolkata Port Zone Establishment Welfare Association has already been submitted before TAMP vide letter No. Lnd.464/F/RFC/XIX (Addl)/17/3432 dated 18.1.2017.</p> <p>It is submitted that the Valuers have considered all relevant factors as specified in Land Policy Guidelines. . It is stated that all area in the vicinity of KDS area have been captured by the Valuer and considered in the analysis as detailed in the report. Apart from the indicated areas, appropriate transaction values from Budge Budge Road, Watgunge, Maheshtala, Mayadasi Road</p>

		etc. have been considered in the report.
(vi).	A 25% discount is given for comparing land use between residential uses with industrial use. This is not acceptable. Representation had been made during the Joint Hearing that the discount should be much higher ideally 50%. The explanation given by BCCI is as follows:	No specific comments furnished by the Port.
	<p>(a). Constructions for residential purposes can be done on 90% of the land area keeping in mind the FAR allowed by Kolkata Municipal Corporation ( "KMC"). Industrial leasehold lands of KOPT are allowed to have construction only on 35% of the total area by KMC. The remaining 65% area has to be left open. The utilization of the leasehold land is therefore 35% compared to 90% for residential units.</p> <p>(b). The height of the structure should also be a consideration. Residential properties surrounding KDS area can have building upto five storeys high. For industries the highest structure is the chimney which can be kept at height of maximum 50 metres. The Behala Flying Club in the vicinity of KDS area has become active and any high construction, including chimney, are being restricted. All factory structures therefore have to be made within the restricted height. Even though KMC allows a higher FAR for the residential and industrial structure, in case of industrial structure the Flying Club restrictions followed by the Fire Department's restrictions apply. Full utilization of the industrial leased areas cannot be done. Benefits of covered area through higher structure and more floors are not available for industrial establishments.</p> <p>(c). Residential properties can be rented out without restrictions. KOPT does not allow free sub-letting of land or structure on land. Due to poor business conditions in West Bengal, several industrial units in KDS area have excess land/structure which they would like to rent out, but cannot do so. This is another limiting factor which is disadvantageous to industrial plots.</p>	No specific comments furnished by the Port.
(vii).	A 17% discount is given for comparing freehold land with leasehold land for industrial purpose. This is not acceptable. Representation had been made during the Joint Meeting that the discount should be ideally 65%. The explanation given by BCCI is as follows:	

<p>(a) Freehold land is the property of the owner. Even if a loan is taken, with each loan repayment instalment progressively the ownership of the land passes on to the occupier with rights to sell, transfer and also for his legal heirs to inherit the property. No matter how much lease rent you pay, you will never be the owner of a leasehold property. A 99 year lease also does not give you ownership. Although you have paid a sizeable amount upfront for a long term lease, no asset is created at the end of the lease term. This is one of the largest disadvantage of leasehold lands and huge discounts should be provided only on this count.</p> <p>(b). Construction of structure is also a consideration. On freehold land we are free to construct any structure within the KMC norms. On leasehold land, Lessees hoping that the lease rights will be renewed at end of every lease term, take the risk of investing huge amounts in value in asset creation on the leased property. A lessee paying ₹.1 crore rent per annum will be investing more than ₹. 50 cores in assets for construction of boundary wall, buildings, factory equipment etc. to do business on a “going concern” basis. Employees are also recruited on a permanent basis to serve in these industries. These industries become concerned when the lease term is nearing expiry and the KOPT brings in restrictions on renewals of leases. This is the also one of the largest disadvantage of leasehold lands and huge discounts should be provided only on this count.</p> <p>(c). Size matters. The freehold land on a main road for a petrol pump on a small plot of land cannot be compared with the leasehold land in the same area for an industry. Therefore transactions /registrations of such legal estates in the locality cannot be the basis for determining SOR for KOPT leased lands for industrial use. This is where a physical visit of such situations would have made the Valuers aware of the ground reality.</p> <p>(d). Similarly, KOPT has agreed after several representations to them, that a recent tender price for a small plot of land for a retail venture (like shop or petrol pump), cannot be the basis for determining the SOR rates for an industrial area in the same location. The scale and purpose are so different that cannot compare them on</p>	<p>The rationale of the discounts as derived by the Valuer for the stated two factors are detailed below:</p> <p><b>Land Use:</b> It refers the permissible use of the site as per Land Use Plan of KOPT which is based on LUDCP of KMDA, except certain minor modifications. In the port area, all permissible usages as per LUDCP except residential purpose are generally allowed. As the land price depends on the usage, the land price having industrial usage only, remains on much lower side in comparison to the land having residential or commercial or mixed usage. Considered discount @25% is uniform for all areas under KDS.</p> <p><b>Ownership:</b> This factor refers the type of ownership attached with the land. The subject sites within KDS generally have leasehold right for 30 years. Leasehold land parcels are priced lower than the freehold ones. Transaction of leasehold property is very rare. In and around Kolkata, the factor varies between 10 - 20% depending on location. They have considered the iscount factor as 15%. The amount of discounts considered, are based on certain comparative studies made by the valuer and also mathematical analysis. It further requires mention that the amount of discounts considered are same as done in case of the earlier rate revision proposal prepared on the basis of the valuation report submitted by M/s Pricewater House Coopers Ltd, based on which SoR of 2011 was notified for KDS.</p>
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	a par basis.	
(viii).	<p>The Valuer has also mentioned that the roads are in poor condition no street illumination, there are no drains or they are clogged, unorganised parking created hindrance to flow of traffic. What they have not mentioned is that the recent restrictions in port vehicle movements in the KDS area have disturbed all business from their functioning as movement of incoming trucks containing materials and outgoing trucks with final products had been severely restricted causing huge business losses and failure of commitments to customers. KOPT should, when they lease out land, ensure as Landlord, that they give clean and proper ingress and egress, drainage facility, water connections, proper street lighting and other infrastructure support for which lease rent is being collected. They have failed in providing these basic support, which have been reflected in the Report. There should be a specific discount for this, as all industries in the KDS area have to spend extra money for their own drainage and lighting arrangements, to repair roads in front of their factories, to bear extra costs for repair of their vehicles and also pay compensation for those who have been injured or have expired due to road accidents due to the poor road conditions.</p>	<p>The Roads and other infrastructure condition have duly been recognized by the valuer in their report and appropriate factoring has been done as detailed below:</p> <p>“The actual site conditions in Port areas are not comparable with the adjacent areas or other parts of the city. Comparatively poor road and drainage condition, absence of street illumination in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in while comparing with subject land parcels, by using appropriate adjustment factors (varying from +10% to -25%).”</p> <p>It requires mention here that KOPT has taken up major road renovation and restoration works in and around Dock area. Work orders for such work have been issued for a total amount of Rs.14.9 crores which will improve the situation in near future. As a move to streamline the traffic flow, KOPT is developing additional parking facilities at 4 locations at a total estimated cost of around Rs.7 crores.</p> <p>Accordingly, it is stated that the proposed rates have been derived in conformity with the realistic site condition and all factors influencing the Valuation of the land and rate revision analysis have been appropriately considered strictly in conformity with the Land Policy Guidelines. It is further stated that in a recent tender where the reserve rates were fixed as per the proposed rates, response in respect of 69 plots have been received out of 90 plots. Accordingly it is stated that the proposed rates are realistic and market responsive.</p>
<b>(b).</b>	<b>Proposed Schedule of Rent</b>	
	<p>The rates mentioned in proposed Schedule of Rent are not acceptable as the Valuation Report which forms the basis of these proposed SOR rates itself is not accepted by us for the reasons explained above. In our view the SOR rates should be increased by maximum another 2% over the SOR rates derived at after increase 2% annually. This would give a 19% increase in rent from the last notified SOR rates, which itself is excessive compared to the current market scenario and the inflation rates. BCCI submitted its comments on the other matters mentioned in the proposed SOR apart from the comments given above:</p>	---
(i).	<b>Cumulative 30 year period:</b> The term cumulative period of 30 years is crucial as	These are not related to the instant proposal.

	<p>such leases will have to be referred to Shipping Ministry for approval. The Ministry takes undue time to approve and several trips have to be made by Company's officials to New Delhi to get the lease renewed/finalised. TAMP should clarify that since leases are not being renewed, granting of a lease to an existing lessee does not amount to an extension of term of the lease. Therefore these are two separate leases and their respective terms should not be added (or cumulated) for the purpose of determining "cumulative period" of the lease. Cumulative period of lease will be considered only in cases of renewals and not where a fresh lease is given. TAMP should give a clarification and clear definition and direction.</p>	
(ii).	<p>The Land Policy and SOR rates mention that annual rent will be increased by 2%. KOPT, in case of existing long term lessees, has been charging 5.1% enhancement per annum. At the time of calculating the effectiveness of the revised SOR rates, the existing rate of lease rent (which has been calculated at 5.1% p.a) will always be higher than the same SOR rate being calculated at 2% annually and therefore there is a clear disadvantage to existing long term leases when compared to the new lessees. KOPT being a unit of the Central Government and therefore a "State", cannot apply different rates for the same land for same period.</p> <p>The Argument given by the Land Manager at the Joint hearing and by his officials at all the interactive meetings held earlier at KOPT offices, is that the annual enhancement of 5.1% is as per the respective lease agreements with the lessees. This is not a valid argument, but KOPT is not accepting the lessees views and continues to enhance rent by 5.1% p.a. KOPT should abide by the Land Policy and also by SOR and cannot take the best of both worlds entirely to its own advantage by discriminating between lessees occupying lands in the same area by distinguishing them as new lessees (who pay 2% p.a. annual increase) and old lessees (who pay 5.15 p.a.). A letter issued by the Shipping Ministry to KOPT to strictly follow the Land Policy (copy enclosed) has not been followed and is still not being followed by KOPT. TAMP should give clear directions that annual enhancement should be only 2% and not 5.1% p.a</p> <p>Keeping the above mind, TAMP should also give directions to KOPT to refund all excess rent wrongly charged by KOPT by charging 5.1% increase p.a instead of 2% p.a. which they have charged knowing it to be wrong.</p>	
(iii).	TAMP by its order dated June 24, 2015 (copy	

	<p>enclosed) ordered that for all existing long term lessees who had paid upfront premium, the SOR rates would be reduced by 24%. KOPT has till date not reduced the rates by 24% and are continuing to raise rent bills for the enhanced rent (i.e. without reduction of 24%). KOPT therefore is neither following the TAMP orders, nor the SOR nor the Land Policy. KOPT by raising enhanced rent bills, knowing them to be enhanced and hence wrongful, are also calculating interest on such enhanced billing and veiled threats of eviction or non-renewal of leases if these enhanced rentals are not paid, does not speak well of a unit of the Central Government which is a "State" and should follow a fair, clean and transparent means in its operations. TAMP should give a direction that its order dated 24.6.2015 should be strictly followed and complied with and the persons responsible for such non-compliance should be identified and held responsible.</p>	
(iv).	<p>There is a recommendation in the Valuation Report that the system of 1st belt and 2nd belt should be continued which the KOPT Board has accepted. We do not see these being reflected in the proposed SOR rates. TAMP should allow the 1st belt and 2nd belt method of lease rent calculation. However, it is mentioned that 2nd belt should be 80% of the 1st belt which is excessive. The same percentages as was existing in earlier SOR should be followed and not an adhoc 80% for all cases.</p>	<p>The size of land area affects the value of plots. So far, KOPT has been following the principle of belting [i.e. higher rate of rent for first 50 m from the main road and lower rate of rent beyond 50 m from the main road] which, in turn, allowed lower average unit rate for larger plots. Valuer is also in agreement with such principle. Accordingly, it was recommended by Board that the derived rates would be applicable for 1st belt only. Second belt would be charged uniformly at 80% of the 1st belt rates. However, the belting should be uniform and applicable for all zones where it has been allowed in the Schedule of rent of 2011. In other words, the areas within 1st 50 mtrs of Road will be charged at 1st belt rate for all such zones and areas beyond such 1st belt would be charged 2nd belt rate which will be 80% of 1st belt rate. It is further stated that the decision to apply a cap on increase in rates that capping in rates at 75% was in respect of first belt only and for second belt 80% of first belt rate has been considered uniformly. In the existing SoR of 2011, the ratio of rates between 1stbelt and second belt across all the relevant zones are not uniform. It varies from 54 % to 81% but the general differential is around 20%. In order to bring uniformity, it was decided to maintain a ratio of 80% which may have some implications in respect of few zones where the earlier differential was less than 80%.</p>
(v).	<p>Renewals/ Fresh leases upon expiry of existing leases should be completed before</p>	<p>These are not related to the instant proposal hence not commented upon.</p>

	<p>the due date of expiry of existing leases. This is not being followed. Delays from KOPT side results is existing lessees occupying lands whose leases have expired. This creates huge audit objections as entire “going concern” concept of the companies may be eroded in the unlikely event that the existing lessee does not get to renew its lease. All Auditors tend to qualify their report, loans taken by the companies face strong repayment demands during the expired lease period, employees and other stakeholders feel concerned for the renewal of lease. Corporate effort get diverted from doing business to concentrating on renewal of the lease. TAMP should therefore insist and lay penalty clauses in case KOPT does not complete the entire renewal process at least one month before the due date of renewal of the lease.</p>	
(vi).	<p>When a lease renewal is being considered, the existing lessee, whose lease may have expired due to delays by KOPT, should not be declared as an “unauthorised occupant” nor should 3.5 times rent be charged, nor should any adverse action be taken against the existing lessee. KOPT also refuse to accept rent for the months after expiry of lease until lease is renewed causing Audit and business concern. TAMP should give orders that during lease renewal periods, if the lease expires, same rent will be collected from the lessees on basis of a temporary licence granted by a simple letter and accordingly the existing lease rent should be collected until the lease is renewed.</p>	
(vii).	<p>The Proposal for withdrawal of 15% additional rent for land having abutting roads is the only relieving factor. It confirms what the lessees have always stated that the abutting roads actually do not add any additional value to the industrial land. Huge container loaded trucks, excise goods movement etc can only be made from the main door which has a wider road and is covered under excise rules for removal of goods. Additional gates often are not permitted by excise and labour authorities. TAMP should therefore in their order mention that the 15% levy for abutting roads should not have been charged at all in past years.</p>	<p>The provision is as per the Land Policy Guidelines.</p>
(viii).	<p>KMC levies a tax on the structure created by the lessees on the leased lands. The tax is assessed by KMC every 6 years and the quarterly tax payable is determined. If the lessees pay the quarterly tax within due dates, a 5% rebate is offered by KMC. KOPT does not allow the lessees to pay the KMC Tax on structure directly to KMC. KOPT recovers the taxes on a monthly basis from the lessees hence affecting the cash flows of</p>	<p>Not directly related to SoR.</p>

	each lessee. KOPT also does not pass on the 5% rebate to the lessees. TAMP order should mention that KMC Tax liability may be settled by the lessees at their option.	
(ix).	KOPT does not issue any monthly receipts for rent collected. TAMP Order should mention that monthly rent receipts to be issued and sent to the lessees.	Not directly related to SoR.
(x).	KOPT does not give credit for the taxes deducted at source ("TDS") by lessees from the monthly rent paid to KOPT. As a result KOPT raises notices claiming short payment of rent and calculating interest on such shortfalls. These shortfalls are the TDS element. TAMP should give Order that TDS deducted by lessees should be considered and credit given after verification from Income Tax Form 26AS available online	Not directly related to SoR.
(xi).	The notification for the revised Schedule of Rent should give details and procedures of every issue raised above and clarify issues not specifically clarified in the Land Policy.	Not directly related to SoR.
(xii).	The lease should have a renewal clause and also a sub-letting clause.	Not directly related to SoR.
(xiii).	Special provisions should be mentioned in the notification for non-commercial ventures like NGO's and institutes which operate in the area who should be offered a reduced rent for their lands.	Not directly related to SoR.
	It is requested to consider these comments at the time of finalising the proposed Schedule of Rent. It is also requested that a final draft of the SOR along with complete notes be circulated to all stakeholders and another Joint Hearing be held before TAMP notifies the revised SOR.	Not directly related to SoR.
<b>9.</b>	<b>Diamond Beverages (P) Ltd (DBPL)</b>	
(i).	DBPL is a lessee of P-41, Taratala Road, Kolkata 700 088 in respect of a land measuring 4570.82 sq.mtr. in the first belt and 2572.39 sq.mtr.in the second belt being Plate No.D/154/19/A (currently numbered as D/00000093) under Kolkata Port Trust.	Admitted to what are the matters of fact. The reserve rate for the plot in the tender which was floated in 2015 was fixed in terms of the provision of Land Policy Guidelines, 2014 made effective from 2.1.2014. In terms of the aforesaid Land Policy Guidelines, the reserve upfront should be based on market value. Accordingly, the reserve rate of this plot was finalized in terms of the then prevailing market value which was more than the prevailing SOR at that point of time.
(ii).	The Lease for the plot expired on 30 <sup>th</sup> June 2014. The DBPL approached the KOPT for renewing the lease. KOPT informed the DBPL that the central Government has made policy Guidelines that before renewal of lease, the land had to be put to Tender-cum-Action and the existing lessees would have first right of refusal and an opportunity to meet the highest bid. The objector in good faith accepted said proposal by KOPT and the said land was put to Tender-cum-Auction. The annual rent for the said plot was Rs.27,08,866.00 in accordance with SOR fixed by TAMP. The reserve price for the bid was fixed at Rs. 27,75,387. Though the amount was higher than the SOR fixed by TAMP, DBPL accepted	

	the same since the increase was nominal.																																									
(iii).	It was found that the DBPL was the only bidder, as DBPL is carrying on business on the said plot for several years and more than one thousand employees are working in the said plot. But KOPT rejected the bids unilaterally and illegally on the plea that the Central Government has asked for a re-tender. Re-tender by KOPT was illegal being contrary to bid documents and contrary to the land policy guidelines by Central Government. The DBPL asked the TAMP to intervene in the matter to remedy the illegal acts of KOPT.	It is pertinent to mention that the issues agitated are not related with the revision of rent of Kolkata Port Trust. As the proposed lease was for 30 years and as cumulative period was more than 30 years, the approving authority of such lease was the Ministry of Shipping. Accordingly, after conclusion of tender, the proposal for grant of proposed lease from prospective date was forwarded to the Ministry in terms of KOPT Board's decision dated 7.9.2015. Empowered Committee of Ministry has not accepted the proposal and advised to go for re-tendering. Accordingly, the re-tendering of this plot along with 9 other plots was initiated (copy of Ministry's letter dated 26.10.2016 is attached by KOPT as Annexure-I.																																								
(iv).	In the premises, the DBPL reasonably expected that the bids of the DBPL will be accepted. But, KOPT has rejected the bids unilaterally and illegally on the plea that the Central Government has asked for a re-tender, since the DBPL was single bidder. No Document on this score was disclosed by KOPT in spite of repeated requests, representation and meeting held with them. The DBPL reasonably believe that there is no document cancelling the single bid since the bid document as well as the land policy accepted single bid since situation. Re-tender by KOPT was illegal being contrary to bid documents and contrary to the land policy guidelines by Central Government.																																									
(v).	It is pertinent to mention that other single bidders were accepted by KOPT in respect of the same tender, but hostile discrimination was meted out to the objectors unlawfully and such action by KOPT was violative of Article 14 of the Constitution of India.																																									
(vi).	The KOPT instead of re-tendering, floated a fresh tender for lease of the said plot. Surprisingly, the reserve price was inflated by 63%. A chart showing the annual rent in accordance with SOR fixed by TAMP and the reserve price fixed by KOPT is tabulated below:-																																									
	<table border="1"> <thead> <tr> <th>Area</th> <th>1<sup>st</sup> Belt</th> <th>2<sup>nd</sup> Belt</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>7,143.21 Sq.Mtr.</td> <td>4,570.82</td> <td>2,572.39</td> <td></td> </tr> <tr> <td>SOR March 2011 As on July 2015 Rs.1,787.00 As on July 2015</td> <td>3,300.00</td> <td>1,787.00</td> <td></td> </tr> <tr> <td>Monthly Amount</td> <td>1,50,852.60</td> <td>45,442.64</td> <td>1,96,294.64</td> </tr> <tr> <td>Add: 15% for 2nd Belt</td> <td></td> <td></td> <td>29,444.19</td> </tr> <tr> <td></td> <td></td> <td>Total</td> <td>2,25,738.83</td> </tr> <tr> <td>Annual Rent</td> <td></td> <td></td> <td>27,08,865.96</td> </tr> <tr> <td>Reserve Rent in Tender No. 2/2015</td> <td></td> <td></td> <td>27,75,461</td> </tr> <tr> <td>Proposed Rates (2016)</td> <td>5201.59</td> <td>2756.84</td> <td></td> </tr> <tr> <td>Reserve Rent</td> <td></td> <td></td> <td>45,39,049.00</td> </tr> </tbody> </table>		Area	1 <sup>st</sup> Belt	2 <sup>nd</sup> Belt	Amount	7,143.21 Sq.Mtr.	4,570.82	2,572.39		SOR March 2011 As on July 2015 Rs.1,787.00 As on July 2015	3,300.00	1,787.00		Monthly Amount	1,50,852.60	45,442.64	1,96,294.64	Add: 15% for 2nd Belt			29,444.19			Total	2,25,738.83	Annual Rent			27,08,865.96	Reserve Rent in Tender No. 2/2015			27,75,461	Proposed Rates (2016)	5201.59	2756.84		Reserve Rent			45,39,049.00
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(vii).	KOPT informed that the reserve price for the new tender was based on the proposal made by KOPT to TAMP for increase of SOR and TAMP has given a hearing on November 24 2016 but till date no tariff order has been published and that TAMP has sought some clarifications from KOPT which they are in the process of filing within few weeks.					It is submitted that the tariff proposal was finalized by KOPT following due process as specified in the Clause No 13 of the "Policy Guidelines for Land Management by Major Ports, 2014 – Clarifications and amendments – regarding" as forwarded by the Ministry vide their letter dated 17.7.2015.
(viii).	No public notice was published about any proposal made by KOPT before TAMP. There was no public notice about any hearing to be given by TAMP. The entire decision making process was vitiated and is void for violation of the principles of natural justice.					(a). The SOR of 2011 was valid till 6.4.2016. The validity of the SOR has been extended initially for a period beyond 06.04.2016 in terms of the Order of TAMP dated 30.3.2016 (copy attached). It was clearly mentioned in the order that the new SOR to be fixed based on the proposal to be filed by KOPT may have to be given retrospective effect w.e.f.7.4.2016, a copy of which is given by KOPT as Annexure – II.
(x).	The DBPL prays for kind consideration to put to an end to overlapping control by Central Government, TAMP and KOPT. TAMP may kindly fix all types of any land so that the KOPT cannot discriminate between the lessees, as has been done in the present case.					<p>(b). Though KOPT vide its letter dated 3.6.2016 requested TAMP to reconsider their decision to revise SOR retrospectively, TAMP vide its letter TAMP/7/2010-KoPT dated 18 July 2016 (copy attached) did not consider the request of KOPT and instead pointed out that the provision of the revision of SOR from 7.4.2016 was made known in March 2011 itself and the Land Policy Guidelines require revision of lease rentals/licence fee once in five years. A copy of which is given by KOPT as Annexure – III.</p> <p>(c). As per Clause No 13(c) of Land Policy Guidelines, 'TAMP would notify the latest SOR of the land after following due process of consultation with stake holders within 45 days of receipt of the proposal'. The proposal was submitted to TAMP on 29.9.2016 and joint hearing was conducted by TAMP on 24.11.2016.</p> <p>(d). The reasonable expectation was that the new SOR would be in force when the subject tenders mature for allotment. In such an event, the Port cannot allot any land below the rate prescribed in the prevailing SOR.</p> <p>(e). It was therefore not considered prudent to invite tenders for 30 years at SOR which has already expired and likely to be substituted by a new SOR from retrospective date.</p> <p>(f). Against the specific allegation of the party at <b>Para 8</b>, it is submitted that Notice of the Public hearing was duly given by</p>

		<p>TAMP to several parties as detailed below:</p> <table border="1"> <thead> <tr> <th>Sr. No.</th> <th>User / Representative Bodies</th> </tr> </thead> <tbody> <tr><td>1.</td><td>Bengal Chamber of Commerce &amp; Industry</td></tr> <tr><td>2.</td><td>Merchants' Chamber of Commerce</td></tr> <tr><td>3.</td><td>Indian Chamber of Commerce &amp; Industry</td></tr> <tr><td>4.</td><td>Oriental Chamber of Commerce</td></tr> <tr><td>5.</td><td>PHD Chamber of Commerce</td></tr> <tr><td>6.</td><td>Associated Chamber of Commerce &amp; Industry</td></tr> <tr><td>7.</td><td>Howrah Chamber of Commerce</td></tr> <tr><td>8.</td><td>Bengal National Chamber of Commerce &amp; Industry</td></tr> <tr><td>9.</td><td>Calcutta Chamber of Commerce &amp; Industry</td></tr> <tr><td>10.</td><td>Shipping Corporation of India Ltd.</td></tr> <tr><td>11.</td><td>Tata Iron &amp; Steel Company</td></tr> <tr><td>12.</td><td>Bharat Petroleum Corporation Ltd., Kolkata</td></tr> <tr><td>13.</td><td>Hindustan Petroleum Corporation Ltd., Kolkata</td></tr> <tr><td>14.</td><td>Indian Oil Corporation Ltd., Mumbai</td></tr> <tr><td>15.</td><td>Hindustan Lever Ltd., Midnapore, WB</td></tr> <tr><td>16.</td><td>Steel Authority of India Ltd. Kolkata</td></tr> <tr><td>17.</td><td>Calcutta Electricity Supply Corporation</td></tr> <tr><td>18.</td><td>West Bengal Power Development Corporation Ltd.,</td></tr> <tr><td>19.</td><td>Tamil Nadu Electricity Board</td></tr> <tr><td>20.</td><td>M/s. Balmer Lawrie &amp; Company Ltd</td></tr> <tr><td>21.</td><td>M/s. Vesuvius India Limited.</td></tr> <tr><td>22.</td><td>M/s. Everest Industries Limited</td></tr> <tr><td>23.</td><td>M/s. Stewarts &amp; Lloyds,</td></tr> <tr><td>24.</td><td>Food Corporation of India Limited</td></tr> <tr><td>25.</td><td>M/s. Century Plyboards (I) Limited</td></tr> <tr><td>26.</td><td>Container Corporation of India Limited, Kolkata,</td></tr> <tr><td>27.</td><td>Port Tenant Welfare Association.</td></tr> <tr><td>28.</td><td>TM International Logistics Limited</td></tr> <tr><td>29.</td><td>International Seaports (Haldia) Private Limited</td></tr> <tr><td>30.</td><td>M/s. ITC Limited, Kolkata</td></tr> <tr><td>31.</td><td>M/s. Bay Container Terminal (P) Limited, Kolkata</td></tr> <tr><td>32.</td><td>M/s. Indian Container Terminal Private Limited, Kolkata</td></tr> <tr><td>33.</td><td>M/s. Sea Horse Ship Management Limited, Kolkata</td></tr> <tr><td>34.</td><td>The Hindustan Engineering &amp; Marine Corporation, Kolkata</td></tr> <tr><td>35.</td><td>M/s. Patvolk, Div. of Forbes Gokak Limited, Kolkata</td></tr> <tr><td>36.</td><td>M/s. Gokak Patel Valkari, Patvolk Divn., Kolkata</td></tr> <tr><td>37.</td><td>M/s. Premier's Tea Limited, Kolkata</td></tr> <tr><td>38.</td><td>Kolkata Port Zone Establishment welfare Association</td></tr> </tbody> </table>	Sr. No.	User / Representative Bodies	1.	Bengal Chamber of Commerce & Industry	2.	Merchants' Chamber of Commerce	3.	Indian Chamber of Commerce & Industry	4.	Oriental Chamber of Commerce	5.	PHD Chamber of Commerce	6.	Associated Chamber of Commerce & Industry	7.	Howrah Chamber of Commerce	8.	Bengal National Chamber of Commerce & Industry	9.	Calcutta Chamber of Commerce & Industry	10.	Shipping Corporation of India Ltd.	11.	Tata Iron & Steel Company	12.	Bharat Petroleum Corporation Ltd., Kolkata	13.	Hindustan Petroleum Corporation Ltd., Kolkata	14.	Indian Oil Corporation Ltd., Mumbai	15.	Hindustan Lever Ltd., Midnapore, WB	16.	Steel Authority of India Ltd. Kolkata	17.	Calcutta Electricity Supply Corporation	18.	West Bengal Power Development Corporation Ltd.,	19.	Tamil Nadu Electricity Board	20.	M/s. Balmer Lawrie & Company Ltd	21.	M/s. Vesuvius India Limited.	22.	M/s. Everest Industries Limited	23.	M/s. Stewarts & Lloyds,	24.	Food Corporation of India Limited	25.	M/s. Century Plyboards (I) Limited	26.	Container Corporation of India Limited, Kolkata,	27.	Port Tenant Welfare Association.	28.	TM International Logistics Limited	29.	International Seaports (Haldia) Private Limited	30.	M/s. ITC Limited, Kolkata	31.	M/s. Bay Container Terminal (P) Limited, Kolkata	32.	M/s. Indian Container Terminal Private Limited, Kolkata	33.	M/s. Sea Horse Ship Management Limited, Kolkata	34.	The Hindustan Engineering & Marine Corporation, Kolkata	35.	M/s. Patvolk, Div. of Forbes Gokak Limited, Kolkata	36.	M/s. Gokak Patel Valkari, Patvolk Divn., Kolkata	37.	M/s. Premier's Tea Limited, Kolkata	38.	Kolkata Port Zone Establishment welfare Association
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(xi).	<p>Since the proposal made by the KOPT did not contain any document or basis or particulars for the valuation of the land taken therein, by a letter dated January 31<sup>st</sup>, 2017 the DBPL requested the KOPT to furnish the basis and/or the particulars and/or calculations for arriving at the valuation made in the proposal by them. A Copy of the said letter dated</p>	<p>The contention of the party is denied. The tariff proposal along with valuation report was circulated to all the above organisations on 18.11.2016 and 19.11.2016 who have also attended the hearing given by TAMP on 24.11.2017. When the applicant party had approached this office on 24.1.2017 for copy of</p>																																																																														

	January 31 <sup>st</sup> , 2017 is furnished by DBPL.	Valuation Report, copies of the Report and the tariff proposal were forwarded to them by e-mail immediately, a copy of which is attached by KOPT as Annexure-IV.
(xii).	The DBPL has appointed a world renowned real estate consultant, M/s. JLL India Ltd. And expect to get their report soon. Copies of the quotation by JLL and the work order issued by the DBPL are attached by DBPL.	Nothing to comment. However, the proposal for revision of rates cannot be deferred for indefinite period.
(xiii).	In the circumstances, the DBPL is filing this preliminary objections and suggestions without prejudice to their rights to file a comprehensive objection and suggestion, after the documents, source and / or basis as stated above are disclosed by KOPT and the report from JLL is received, within such time as may be granted by TAMP.	
(xiv).	The DBPL place on record certain material issues, facts and submissions that would be necessary for TAMP to adjudicate upon the proposal by KOPT. It is submitted that except to the extent explicitly admitted in the present objection, TAMP may proceed on the basis that the DBPL deny all submission contrary to or at variance with the contents of the present objection.	Nothing to comment.
(xv).	The KOPT has sought revision of its SOR based on the valuation report dated July 22, 2016 by one M/s. Colliers International (India) Property Services Private Limited (in short, "valuation report"). The valuation report is x facie arbitrary, unreasonable, self-contradictory and based on surmises and conjecture, far from ground reality.	It is reiterated that valuation of the land parcel in KDS has been carried out by engaging an expert agency i.e. M/s. Colliers International (I) Property Services Ltd. They have collected data from Sub-Registry Offices as well as from their own data base and also considered the offer received in recent tenders finalized in KDS. To arrive at rates, appropriate influencing factors have been duly considered by the valuer which has been detailed in the valuation report.
(xvi).	<b><u>Valuation of Zone 16 and Zone 17</u></b> Zone 16 comprises of plots on the sides of Taratala road from Taratala/ Diamond harbor Road to Brace Bridge and Zone 17 comprise of plots on the sides of Taratala Road from Brace Bridge to Circular Garden Reach Road.	The contention of the party is based on certain facts which are not correct.  It is stated that the width of the road (Taratala Road Zone 17) in front of this particular property is 100ft. (And not 30ft as contended by him in Para 19). In this regard a sketch submitted by the petitioner in connection with an adjacent property is annexed (Annexure-V) which shows the road width as 100ft.
(xvii).	In the valuation report, at para 2.1, Zone 16 and Zone 17 have been clubbed as Cluster Area-1 (High Zone). In para 4.3(xvi), the basis of valuation has been alleged to be based on road-width and Floor Area Ratio (FAR) has not been considered. In para 4.3(xiii), it is proposed that the second belt will be charged uniformly at 80% of the first belt rates.	It is further submitted that the Road width at Zone 16 varies from 100ft to 120 ft and in Zone 17 from 100ft to 110 ft. accordingly there is hardly any difference in Road width to influence the FAR for their existing purpose. It is submitted that as per Kolkata Municipal Regulations the Permissible Floor Area Ratio (FAR) for

		<p>roads of width 60 ft and 120 ft is same for the proposed uses for Diamond Beverage i.e. Industrial and Storage (chart annexed). Moreover the plot of Diamond Beverage and other adjoining plots at Zone 17 are having access to Budge Budge Road on the other side. A copy of which is attached by KOPT as Annexure – VI.</p> <p>It is submitted that Valuation and clubbing of Zones has been done by the valuer in accordance with the parameters detailed in the report.</p> <p>It is not at all correct that zone 17 is under developed and slum area. It requires mention that reputed industrial units of M/s. Tractor India Ltd., M/s. Eternet Everest, M/s. Visuvius India Ltd. etc. are all situated in this zone.</p> <p>Regarding the belting it is submitted that KOPT Board in Reso. dated 24.8.2016 recorded “The size of land area affects the value of plots. So far, KOPT has been following the principle of belting [i.e. higher rate of rent for first 50 m from the main road and lower rate of rent beyond 50 m from the main road] which, in turn, allowed lower average unit rate for larger plots. Valuer is also in agreement with such principle. Accordingly, it is recommended that the derived rates would be applicable for 1st belt only. Second belt would be charged uniformly at 80% of the 1st belt rates. However, the belting should be uniform and applicable for all zones where it has been allowed in the Schedule of rent of 2011. In other words, the areas within 1st 50 mtrs of Road will be charged at 1st belt rate for all such zones and areas beyond such 1st belt would be charged 2nd belt rate which will be 80% of 1st belt rate.” It is further stated the decision to apply a cap on increase in rates that capping in rates at 75% was in respect of first belt only and for second belt 80% of first belt rate has been considered uniformly.</p> <p>It requires mention that for an adjoining Land (same zone 17) the same party has agreed to pay uniformly for the second belt and first belt which is ₹. 4133.00 per 100 sq.m per month in May 2014. A copy of letter is attached by KOPT as Annexure-VII. In such event the agreed rate for second belt in zone 17 by the aforesaid party duly updated @ 2%</p>
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		p.a becomes 4300.00 per 100 sq.m per month at present. Whereas as per the proposed SOR the rate for second belt is ₹. 4565.00 per 100 sq.m per month (hence increase is only 6.16% for the second belt over their already agreed rate).
(xviii).	It is submitted that the valuation report is baseless and self- contradictory and no reliance can be placed thereon.	The contents are denied. It is stated that the road beams adjoining the properties of the objector are often occupied by their vehicles for loading-unloading which will also be evident from the pictures annexed by them at S-9 & S-10. It is further mentioned that this part of Taratala Road comparatively less congested which will be evident from the picture annexed by them at S-11. It is further pertinent to mention that there is not much difference between the two zones and perhaps number of hutments in zone 16 is much more than in zone 17 as shown in aforesaid drawing.
(xix).	<b>Zone 16</b> , i.e. Taratala Road from Diamond Harbour Road to Brace Bridge/ Budge Road is a four-lane road with average width of more than 50 feet with devisers at the center of the road. Whereas <b>Zone 17</b> , i.e. Taratala Road from Budge Road to Circular Garden Reach road is narrow road of average width 30 feet without any divider and shanties encroaching the road, with high congestion. In this connection, maps prepared by surveyor along with photographs of Taratala Road upto Brace Bridge and beyond Brace Bridge are furnished by DBPL.	
(xx).	If the cluster were made on the basis of road-width, Zone 16 and zone 17 could not have been clubbed and/or equated. Historically, since 1988, Zone 16 and zone 17 had separate Scale of Rates and the rate of Zone 17 (1 <sup>st</sup> Belt) was 80% of the rate applicable to Zone 16. In the premises, separate valuation should be made for Zone 16 and Zone 17, and they should not be clubbed as unequal cannot be treated as equal.	
(xxi).	Since 1998, Zone being an under-developed and slum area, second belt of Zone 17 was valued at 53% of the first belt Scale of Rates. By the impugned all second belt area have been uniformly valued at 80% of the first belt, without assigning any reasons or basis or justification, which makes the valuation report/ proposal grossly arbitrary, unreasonable and liable to be ignored.	This point is cover above in (xvi) & (xvii).
(xxii).	Due to clubbing of Zone 16 and Zone 17 and valuing the second belt uniformly at 80% of the first belt, the existing rent of ₹.1767/- per 100 sq.mtr. has been proposed to be increased to ₹.4565/- per 100 Sq.mtr. or a hike of 158%, i.e. the rate has been proposed to be increased by 2.5 times which is absurd. The said absurd proposal may kindly be rejected. A chart showing the increase in Scheduled of Rates for Zone 16 and Zone 17 since 1988 is furnished by DBPL.	
(xxiii).	TAMP may conduct a prudent check and allow increase of SOR which is reasonable	The contention of the party is denied. It requires mention that rate revision

	and in tune with West Bengal Premises Tenancy Act, 1997, i.e. 5% every three years following the principle laid down by the Hon'ble Supreme Court of India in the case of Banatwala & Co. vs. LICI & Anr. Reported in (2011) 13 SCC 446.	proposal is in accordance with stipulations in Land Policy Guidelines (clause No 13). In various judgements of Apex Court and Calcutta High Court it was recorded that "..... the price that are prevalent in the schedules of the Port Trust are not based on profiteering..." (copy of order dated 23.2.2007 of Calcutta High Court is annexed. In the aforesaid order, the Judgement of apex court (Dwarakadas Maraftia & Sons as cited by the party) has also been dealt. A copy of which is attached by KOPT as Annexure – VIII. It is further stated that West Bengal Premises Tenancy Act is not applicable for KOPT properties.
(xxiv).	KOPT being an organ of the government and a model landlord cannot act like a private landlord or be actuated by profit motive. In the case of Dwarakadas Marfatia & Sons vs. Board of Trustees for the port of Bombay, the Hon'ble Supreme Court held as follows:- <i>"We are inclined to accept the submission that every activity of a public authority especially in the background of the assumption on which such authority enjoys immunity from the rigours of the Rent Act, must be informed by reason and guided by the public interest. All exercise of discretion or power by public authorities as the respondent, in respect of dealing with tenants in respect of which they have been treated separately and distinctly from other landlords on the assumption that they would not act as private landlords, must be judged by that standard. If a governmental policy or action even in contractual matters fails to satisfy the test of reasonableness, it would be unconstitutional."</i>	
(xxv).	Therefore, in view of the dicta of the Hon'ble Supreme Court, KOPT cannot increase rent by 2.5 times and at the best, can claim increase in rent at the rate of 5% every 3 years.	
(xxvi).	In the valuation report/ proposal, certain discounts have been ostensibly discussed but not effected. While discussing discounts, the following factors have not been taken into account which in any event should be considered. (a). The valuation has been taken on the basis of freehold land whereas the lands of Kolkata Port Trust are leasehold. (b). The area under KOPT falls under Kolkata Municipal Corporation, but adjacent lands fall beyond Kolkata Municipal Corporation. The lands under Kolkata Municipal Corporation are not eligible for any State incentives under the West Bengal Incentives Schemes. Therefore, lessees of KOPT are not entitled to any incentives for setting up their industry whereas the lands at next door are entitled to incentive up to 75% of their total capital investments which is substantial. In the premises, this is also a Discounting factor to be taken into	It is stated that the proposal is in accordance with the provisions of Clause No 13 of "Policy Guidelines for Land Management by Major Ports, 2014 – Clarifications and amendments – regarding" as forwarded by the Ministry vide their letter dated 17.7.2015. It is further stated that the discounts considered by the Valuer are based on the site condition and parameters that influences valuation, the reasons for which are elaborated in the Valuation Report. While arriving at a base market rate for a specific value area, following factors have been applied to remove the inconsistencies between value areas and comparables: <b>Listing Discount:</b> This factor refers to the discounting for negotiation/ bargaining between the prospective buyer and prospective seller, on the listed/quoted price of the seller from the data base of the valuer, since the actual transaction cost is not known. The factor is 5%.

	<p>account while valuing Port Trust's land and has not been into account in the proposal, which makes the proposal unrealistic and arbitrary.</p> <p>(c). By an order dated September 14, 2007 passed by a Division Bench of the Hon'ble High Court at Calcutta, there is a total ban of establishing new industrial units and expansion of existing industries within 10 km. from the Victoria Memorial Hall in respect of industries which emit carbon di-oxide, Sulphur di-oxide, nitrous oxide, nitrous oxide or other gaseous substance. As a result, the existing industries cannot expand and there is bar for setting up new industries. This is also a Discounting factor which was not taken into account in the proposal/valuation report. Copy of the Order passed by the Kolkata High Court Division Bench is furnished by DBPL.</p> <p>(d). Though the valuation report alleges that valuation/ cluster have been made on the basis of road-width, but actually it has not taken into account road-width and the valuations have been taken without disclosing the source or basis at an exorbitant rate and is a tailored report, and should be discarded.</p>	<p><b>Time Adjustment:</b> This factor has been applied on the transaction value obtained from SRO, where actual transaction took place more than a year ago, in order to update the same on the date of valuation. An annual escalation of 2% in line with the provisions of the existing SOR has been applied.</p> <p><b>Land Use:</b> It refers the permissible use of the site as per Land Use Plan of KOPT which is based on LUDCP of KMDA, except certain minor modifications. In the port area, all permissible usages as per LUDCP except residential purpose, are generally allowed. As the land price depends on the usage, the land price having industrial usage only, remains on much lower side in comparison to the land having residential or commercial or mixed usage discount @25% and this would be uniform for all areas under KDS.</p> <p><b>Infrastructure Adjustment:</b> As already detailed above, the actual site conditions in Port areas are not comparable with the adjacent areas or other parts of the city. Comparatively poor road and drainage condition, absence of street illumination in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in while comparing with subject land parcels, by using appropriate adjustment factors (varying from +10% to -25%).</p> <p><b>Ownership:</b> This factor refers the type of ownership attached with the land. The subject sites within KDS generally have leasehold right for 30 years. Leasehold land parcels are priced lower than the freehold ones. Transaction of leasehold property is very rare. In and around Kolkata, the factor varies between 10 - 20% depending on location. They have considered the discount factor as 15%.</p>
(xxvii).	<p>Para 1.5 of the said valuation report under the heading, "Assumptions and Limiting conditions" records as follows:-</p> <p><i>".....Real Estate market in India in unorganized and there is no official market database/ source for their prevailing market rates. The information pertaining to the sales/ listing data has been obtained from source deemed to be reliable. However, no written confirmation or verification was made available and hence, our analysis is limited to that extent."</i></p>	<p>It is stated that transaction data from sub-Registry Office have been collected through official correspondences and the same has been indicated in the valuation report.</p> <p>It is further submitted that the valuation exercise has been done strictly in conformity with the stipulations of Land Policy Guidelines. In this context, the KOPT has given the reference to para 4.3- Basis of Valuation of the Valuation Report and also the certificate given by the Valuer at page 62 of the Valuation Report.</p>
(xxviii).	<p>On the basis of the aforesaid assumption</p>	

	alone, the valuation report should be taken thereof in as much as the valuer himself has not taken any responsibility for the valuation.	
(xxix).	<p>All the properties of KOPT are let out to occupiers and there is no absolute transfer of interest in land. The valuer in the purported report has adopted Direct Sales Comparison Approach, i.e. finding the value of the land and then taking yield at 6% This is a wrong approach and incorrect way of valuation of leasehold right or to determine the applicable market rent. In his authoritative work, Principles and Practice of Valuation, J A Parks has commented as follows:-</p> <p><i>“ When land is fully Developed by buildings erected thereon: when the property is let at a rent from which the fair rent can be ascertained; and when the rent has been proved and is likely to be maintained for years to come, then the rental method of valuation should be applied to determine the market value of the premises”.</i></p>	<p>The valuation and the proposal for revision of rates has been done in conformity as specified in Clause 13 “Policy Guidelines for Land Management by Major Ports, 2014 – Clarifications and amendments – regarding” as forwarded by the Ministry vide their letter dated 17.7.2015. The Clause No 13 b) of the aforesaid policy stipulates : “The Land Allotment Committee shall, while recommending the latest Market Value for any land would normally take into account the highest of the factors mentioned in Para 13 (a) above. Reserve Price in terms of the annual lease rent would be latest SOR determined in accordance with Para 13(a) and 13 (c) and would in no case be less than 6% of the latest market value recommended by the Port Trust.” The valuer in his report has analyzed appropriate yields and recommended 6% yield to be considered over the Market value to arrive at the Annual rentals. Incidentally which is the minimum yield specified in Land Policy Guidelines. As already explained, the valuation considered for fixing rates is after applying various discounts over the market value of land. Though the Land Policy Guidelines require consideration of highest rate of actual transaction registered in the last three years, average rate of actual transaction only has been taken into account to even out the wide fluctuations. Further, extreme values obtained in the earlier tenders have been ignored in the exercise. Moreover, the Board has also decided to moderate the rate increase to 75% of the existing rate prevailed on 7.4.2016.</p>
(xxx).	<p>Therefore, it is submitted that the valuation report being based on wrong premise and wrong method being adopted should be discarded and no reliance should be placed thereon.</p>	
(xxxi).	<p>Last SOR was fixed in the year 2011. Since 2011 the property value in Kolkata is stagnant and practically has not increased at all. Taking base year as 2007 and index at 100, the property Index in October to December 2012 was 209 whereas property Index for January to March 2015 was 212. Therefore, there is no justification, rationale or basis on the part of KOPT to ask any increase in the SOR on the contrary, the SOR of 2011 being higher than the present market value, should be proportionately reduced. In this connection, data published by National Housing Bank (wholly owned by Reserve Bank of India) in this website is furnished by DBPL.</p>	<p>It is further submitted that the party has taken a plot in 2014 at rate higher than the SOR rate as already detailed in response to Para 16-21. It is further submitted that in tender held in December 2016 at Reserve prices fixed at proposed SOR, responses in respect of 69 plots out of 90 plots have been received. Hence it can be considered that the proposed SOR is realistic.</p>

(xxxii).	<p><u>Discount due to leasehold</u></p> <p>In the purported valuation, the valuer has given discount of <b>15%</b> for leasehold property based on some data taken from “my leasehold, UK”. It is respectfully submitted that reliance on data from United Kingdom was wholly misplaced and incorrect. The tenancy laws in UK tenancy laws in India are completely different. Further, this issue of discount due to leasehold is a common phenomenon in valuation done by Income Tax authorities which is a reliable source. The Income Tax Appellate Tribunal (ITAT) has consistently allowed <b>50%</b> or more discount for valuation of leasehold properties vis-à-vis freehold properties. The decisions by ITAT are precedent and on the principles of stare decisis should be followed by this Hon’ble Forum. Therefore, without admitting the correctness of the valuation, the discount due to leasehold property should be allowed at 50%, instead of 15% allowed in the purported report based on UK figures.</p> <p>In this connection, copies of decisions reported in 2012 SSC Online ITAT-5623 and 2013 SSC Online ITAT – 186 are furnished by DBPL.</p>	<p>At the cost of reiteration it is submitted that while approving the existing SOR notified in 2011, TAMP considered a discount factor of 15% for leasehold land when compared to freehold land.</p> <p>In the instant Valuation Report, the Valuer has considered 3 different approaches (pages 24&amp;25) to arrive at the proposed discount factor for leasehold in relation to freehold properties. The contention of party that it is based only some data taken from “my leasehold, UK” is not correct.</p>
(xxxiii).	<p>The Proposal by KOPT is arbitrary, unreasonable and without any basis. It is admitted in the purported valuation report that the price of properties in Kolkata has been stable with marginal escalation in the tune of 2 to 2.5%. However, KOPT in its proposal has prayed for an increase of rent by about 158% for Zone 17, which is absurd. In any event, KOPT is increased by about 12%. Since the 2011 SOR is much higher than the price prevailing even today, the 2011 SOR should be substantially and proportionately reduced on the basis of the documents disclosed in this objection.</p>	<p>It requires mention that for an adjoining Land (same zone 17) the party has agreed to pay uniformly for the second belt and first belt which is ₹.4133.00 per 100 sq.m per month in May 2014. In such event the agreed rate for second belt in zone 17 by the aforesaid party duly updated @ 2% p.a becomes 4300.00 per 100 sq.m per month at present. Whereas as per the proposed SOR the rate for second belt is ₹.4565.00 per 100 sq.m per month (hence increase is only <b>6.16%</b> for the second belt over their already agreed rate.</p>
(xxxiv).	<p>In the purported report, it is admitted that the road conditions are bad, there is waterlogging, the major roads are encroached, storm water accumulation, no street lights are there, no culverts, no sewerage system, no drinking water and some discount has been proposed which are wholly inadequate and lesser discount has been allowed to inflate the SOR arbitrarily and unreasonably. Further, there are traffic restrictions. Movement of heavy goods vehicles are allowed only between 12.00 noon and 4.00 p.m., i.e. four hours out of 12 working hours, i.e. 33% of the working hours is available. Therefore, a discount of 66% should be allowed on this score.</p>	<p>The different factors affecting valuation have been given due weightage while carrying out the rate analysis. The table has already furnished in the valuation report. However, the pictures annexed by the party reveal that the condition of the Road in the Zone 17 is reasonably good at present.</p>

(xxxv).	The land zones have been re-grouped arbitrarily and to inflate the SOR illegally. For example, land inside Hoboken Depot being S1. No.23a of Annexure "9" to the purported Report which is adjacent to Coal Berth being S1. No.28c were together in the 2011 SOR, but they have been re-grouped to increase the SOR and arbitrarily. Zone 16 and 17 have been clubbed wrongfully and arbitrarily, as more fully stated above. The Objector reserve their right to cite other examples and to make appropriate submission at the time of hearing.	All are denied except what are the matters of fact.
(xxxvi).	In view of this, the DBPL prays to reject the proposal for revision of SOR by KOPT and frame a SOR by increasing rent at the rate of 5% for every 3 years in accordance with the provisions of section 18 of the West Bengal Premises Tenancy Act, 1997 read with the dicta of the Hon'ble Supreme Court in the cases of Banatwala & Co. and Dwarkadas Marfatia.	
<b>10.</b>	<b>The Port Tenants Welfare Association (PTWA)</b>	
	<b>Letter dated 27.02.2017</b>	
(i).	The said proposal of KOPT was to revise schedule of rent by 75% of the existing rate on the basis of the report of the surveyor named Colliers International (India) Property Services Pvt Ltd from the report of the said surveyor, it appears that valuation was made on assumption that the subject land was free from encumbrance and other tax liabilities. The basis of valuation of transaction of land parcels in neighbouring areas were freehold and developed land. For instance valuation of land parcel at Posta or Juggernath Ghat were made on the basis of land at Jorabagan or Nimtola Ghat Street. The average escalation of valuation of land parcel was admitted to be 2.5% to 3.5%.	It is stated that valuation has been done in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis considering different factors as specified in the policy guidelines. The increase in rate (over the updated SOR) is different for different zones and enhancement varies from 0 % to 75%. It is further stated that appropriate discounts as explained in the Valuer's report have been given on the transaction values for different factors affecting valuation including 15% of discount on freehold property transaction values to recognise the leasehold rights of Port lands.
(ii).	PTWA's members are lessees and / or tenants of godowns, warehouses land parcels mostly in the eastern side of river Ganga at Juggernath Ghat Godwoen and jorabagan Cross Road to Jagannath Ghat road, and at Howrah Goreshore Road East side and Jagat Banerjee Ghat Road to Shibpur Ferry Ghat. The earlier schedule of rates for land and buildings of KOPT at KDS was approved by the Authority on 19 January 2011. The earlier proposal of KOPT for revision of SOR was made on the basis of the report of surveyor who determined market value of land and building of KOPT during the relevant period. The SOR was approved by TAMP with annual escalation of 2%.	As already submitted the rate proposal has been prepared in accordance with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis considering different factors as specified in the policy guidelines. The annual escalation prescribed in the SOR is not the limiting factor for proposing revised rates based on market value of lands. As per the provisions of the land policy guidelines, fresh valuation of properties is required for framing the revised SOR after expiry of the validity of the existing SOR.
(iii).	The present proposal of KOPT to revise SOR in the basis on the report of surveyor that	A considered rationalised approach has been adopted by the Valuer to factor

	<p>escalation of market value in last three years was 2.5% to 3.5% the market value of land and building of KOPT has been increased by 2% per annum. It would therefore appear that the proposal of KOPT to enhance SOR by 45% to 75% was ex-facie without any basis, wrongful and illegal as the report of the surveyor admits that escalation of valuation was only 2.5% to 3.5%. The surveyor namely Colliers had taken into consideration market value of land parcels in the surrounding developed areas where the road condition were not at all good/congested and the conditions of the godwns/shops are dilapidated / very old and KOPT did not take any step to repair the same for last 15 years. Even assuming without admitting that the SOR should be revised, the revision of SOR could not be more that 2% per annum for the reason stated above.</p>	<p>infrastructure conditions in different zones as detailed in the report. It is further stated that the condition of roads and other infrastructure is not uniform throughout the entire estate of KOPT. In the Valuation report it was recorded that the actual site conditions in Port areas are not comparable with the adjacent areas or other parts of the city. Comparatively poor road and drainage condition, absence of street illumination in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in while comparing with subject land parcels, by using appropriate adjustment factors (varying from +10% to -25%). The valuer has considered the present conditions of Buildings while carrying out the analysis and appropriate depreciation has been used on computing such values. As the Godowns/building spaces are allotted on as-is where-is basis, onus of the repair of the allotted space lies with the occupier. KOPT has also taken up major road repair work in and around dock area.</p>
(iv).	<p>PTWA's members are occupying warehouses/ godowns. Lands parcels of KOPT for last 70/80 or even more that 100 years. They are carrying on their business and earn their livelihood from the said rented godowns/ warehouses / land parcels. The arbitrary proposal of KOPT to revise SOR by 75% would result in closure of business of most of the members and about 1000 nos of office staff and 5000 porters would be thrown out of employment.</p>	<p>The proposal of KOPT is in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis.</p>
(v).	<p>In the circumstances aforesaid, PTWA requested to approve the said proposal of KOPT to revise SOR as annual escalation of 2% per annum by earlier Order protects the interest of KOPT.</p>	<p>----</p>
	<p><b>Letter dated 7.03.2017</b></p>	
(i).	<p>The said proposal of the KOPT to revise rent schedule rom 45% to 75% was on the basis of the report of the Surveyor namely Colliers International (India) Property Services Pvt Ltd. In the said report, the Surveyor had taken into consideration market value of land parcels in the surrounding developed areas whereas the godowns / warehouses / land of the KOPT are situated in the areas where the road conditions are not good/congested and the conditions of the godwons/shops are dilapidated / very old and KOPT did not take any step for repair or maintenance the same for more that last 15 years. It would appear</p>	<p>The proposal of KOPT is in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis. All the documents relied upon in the analysis were attached to the report of the valuer. It is stated that in terms of Land Policy Guidelines 2014 as amended vide letter dated 17.7.2015 specifies at Clause 13.a. (ii) that Highest rate of actual relevant transactions registered in <b>last three years in the Port's vicinity</b> with appropriate escalation factor to be considered for determining SOR.</p>

	<p>that admittedly the report was not on the basis of comparable lands.</p>	<p>A considered rationalised approach has been adopted by the Valuer to factor infrastructure conditions in different zones as detailed in the report. It is further stated that the condition of roads and other infrastructure is not uniform throughout the entire estate of KOPT.</p> <p>In the Valuation report it was recorded that the actual site conditions in Port areas are not comparable with the adjacent areas or other parts of the city. Comparatively poor road and drainage condition, absence of street illumination in Dock area, restrictive vehicular movements, shortage of parking facilities, encroachment and restrictions on new industry, etc. have been duly factored in while comparing with subject land parcels, by using appropriate adjustment factors (varying from +10% to -25%).</p> <p>The valuer has considered the present conditions of Buildings while carrying out the analysis and appropriate depreciation has been used on computing such values.</p> <p>As the Godowns/building spaces are allotted on as-is where-is basis, onus of the repair of the allotted space lies with the occupier. KOPT has also taken up major road repair work in and around dock area.</p>
(ii).	<p>The earlier SOR was approved by the Authority on January 19, 2011. The said proposal for revision of rent was made on the basis of report of reputable surveyor who determined market value of land and building of the KOPT during the relevant period. The earlier SOR was approved by the TAMP with annual escalation of 2%. The present surveyor Colliers International (India) Property Services Pvt Ltd has admitted in its report that market value had increased by only 2.5% to 3.5%. The KOPT has increased rent 2% per year as approved by the TAMP. There was no justification in the proposal of the KOPT to revise SOR from 45% to 75%.</p>	<p>As already submitted the rate proposal has been prepared in accordance with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis considering different factors as specified in the policy guidelines.</p> <p>The annual escalation prescribed in the SOR is not the limiting factor for proposing revised rates based on market value of lands.</p> <p>As per the provisions of the land policy guidelines, fresh valuation of properties is required for framing the revised SOR after expiry of the validity of the existing SOR.</p>
(iii).	<p>The market value of land in Kolkata did not increase to the same proportion as in the other metropolitan cities like Mumbai or Delhi. The proposal of KOPT to enhance SOR from 45% to 75% was baseless.</p>	<p>It is stated that valuation has been done in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis considering different factors as specified in the policy guidelines.</p> <p>The increase in rate (over the updated SOR) is different for different zones and enhancement varies from 0 % to 75%.</p>
(iv).	<p>Even the private owners of lands and buildings could not claim revision of SOR from 45% to 75% over and above the enhanced rent fixed 6 years back with annual escalation</p>	<p>The contention is not acceptable for the reasons detailed in preceding paragraph.</p>

	of 2%.	
(v).	The said proposal of KOPT to revise SOR from 45% to 75% was arbitrary, without authority of law and should be rejected as KOPT was getting reasonable return from its lands and buildings and their interest was fully protected by annual increase of 2%.	At the cost of repetition it is reiterated that the proposal of KOPT is in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis.
(vi).	PTWA stated that their members are small shop owners. It would not be possible for them to pay rent as proposed by the KOPT if the said proposal of KOPT is accepted it would lead to closure of most of their business which will render at least 5000 porters, 1000 employees and our members jobless. The KOPT being state within the meaning of Article 12 of the constitution of India cannot propose to enhance SOR in a manner which a private landlord cannot even purpose to enhance rent.	These factors are not relevant as per the Land Policy Guidelines. The proposal of KOPT is in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis. However it is stated that the enhancement of rent over the base rate, payable for land parcels used as retail shops has been decreased to 35% in the proposed Schedule from 250% as per 2011 Schedule of rent.
	In the above circumstances, PTWA is requested not to approve the said proposal of the KOPT.	
<b>11.</b>	<b>TIL Limited</b>	
(i).	The re-tendering process initiated by KOPT is totally unjustified, arbitrary and detrimental.	Almost on similar issues a reply to the comments made by M/s Diamond Beverage was forwarded vide KOPT letter Lnd.464/F/RFC/XIX (Addl)/17/3698 dated February 17, 2017.
(ii).	TIL Ltd are a lessee under KOPT for more than 50 years in respect of premises falling under two plate codes under zone 17 of the SOR. The Leases in respect of the two plate codes expired on 31 March 2015 and 31 July 2015 respectively and TIL Limited's application for renewal thereof resulted in an open Tender floated by KOPT in July 2015 with first right of refusal granted to TIL Limited. KOPT has, on the plea that TIL Limited were the only bidder for the said two leases, discharged the said open Tender and floated two Revised Tenders in December 2016, to which TIL Ltd objected before the Hon'ble High Court at Calcutta in W.P. No. 5820(w) of 2017, which has been disposed by an Order dated 3 March 2017. In terms of the said Order, TIL Ltd are making this representations on the next SOR which is already due for revision in 2016.	The reserve rate for the plots in the tender which was floated in 2015 was fixed in terms of the provision of Land Policy Guidelines, 2014 made effective from 2.1.2014. In terms of the aforesaid Land Policy Guidelines, the reserve upfront should be based on market value. Accordingly, the reserve rate of this plot was finalised in terms of the then prevailing market value which was more than the prevailing SOR at that point of time. However in that analysis of derivation of market value by LAC all five factors as specified in Land Policy Guidelines were not considered and only tender rates and updated SOR for a particular zone were considered by LAC while deriving the RSP for tender.
(iii).	TIL Ltd are operating factory at the said premises for over 50 years. The land in relation to the premises is taken on two separate leases from KOPT and the last such lease expired on 31 March 2015 and 31 July 2015 respectively. An application for renewal of the said two leases was made in 2014 prior to expiry of the respective leases. The renewal of the two leases is still pending with KOPT, and the next SOR as and when published will vitally affect its interest.	It is pertinent to mention that the issue related to discharge of tender being agitated now is not related with the revision of rent of Kolkata Port Trust. After expiry of leases tenders were invited in June 2015 for further allotment of the plots for 30 years from a prospective date. As the proposed lease was for 30 years and as cumulative period was more than

(iv).	Factory of TIL Ltd employs over 1000 persons directly and another several service providers including the licensed contractors have set up shops in and around the factory premises and are dependent on the factory for their livelihood.	30 years, the approving authority of such lease was the Ministry of Shipping. Accordingly, after conclusion of tender, the proposal for grant of proposed lease from prospective date was forwarded to the Ministry in terms of KoPT Board's decision dated 7.9.2015. Empowered Committee of Ministry has not accepted the proposal and advised to go for re-tendering. Accordingly, the re-tendering of 10 plots was initiated which included plots occupied by M/s TIL.
(v).	TIL Ltd contributes to the Tax Revenue every year and the amount contributed in the last financial year ended on 31 March 2016 was as under: (a). Excise Duty: ₹ 25 Crores (approx.) (b). VAT/CAT : ₹ 16 Crores (approx.) (c). Service Tax : ₹ 5 Crores (approx.)	
(vi).	Naturally, over the years TIL Ltd have made massive investment in the premises by way of Plant, Machinery and Buildings etc. the original cost of which as on dated exceed ₹.200 Cores.	
(vii).	Since the expiry of lease, TIL Ltd have been following up to KOPT for the renewal of the lease. TIL Ltd were informed that pursuant to Clause 11.3 of the land Policy of 2014 as amended and clarified by the Circular NO. PD-130147/2/2014/PD.IV dated 17 July 2015 and issued by Government Of India, Ministry of Shipping (Ports Wing), the land constituting the premises was permitted to be put to tender cum auction with the first right of refusal extended to TIL Ltd company.	
(viii).	The tender floated was for grant of 30 years long term lease. TIL Ltd have participated in the tender and were the sole bidder with bid price being higher that the Reserve price. Clause 11.3 of the 2015 Land Policy expressly provides that if the only bidder is the existing lessee, the annual lease rent would be determined on basis of the latest SOR notified as per Clause 13(c) or the price quoted by the existing lessee in the tender-cum-auction, whichever is higher.	
	In total disregard of the aforesaid clause contained in the Land Policy and contrary to all established norms, KOPT did not finalize the above Bid/Tender despite specific policy detailed in the said Clause 11.3 and on 10 January 2017 KOPT floated a Re-tender in direct violation of the Land Policy and Calusa 11.3 thereof in particular.	
(ix).	Upon the action of KOPT being challenged before the Hon'ble High Court at Calcutta in the aforesaid writ proceeding under Article 226 of the Constitution of India, the said Re-tender has been directed by the Hon'ble High Court to be kept in abeyance until the	

	finalisation of the SOR for 2016. TIL Ltd have not received the copy of the Order and shall forwarded as and when available.																			
(x).	<p>The proposal of KOPT for increase in the Annual Rent is extremely high as would be evident from the following table:</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>Rate per sq. mtr. as per SOR 2011</th> <th>Rate as on April 2016 with increase @ 2% as per annum</th> <th>Increase % on 2% increase basis</th> <th>Rate for SOR 2016 as proposed by KOPT</th> <th>Increase % over SOR, 2011</th> </tr> </thead> <tbody> <tr> <td>1<sup>st</sup> Belt</td> <td>30.49</td> <td>33.66</td> <td>10.40%</td> <td>57.06</td> <td>87.14%</td> </tr> <tr> <td>2<sup>nd</sup> Belt</td> <td>16.32</td> <td>18.02</td> <td>10.42%</td> <td>45.65</td> <td>179.72%</td> </tr> </tbody> </table> <p>The above is glaring and self-explanatory. It is pointed out that there is no question of changing the basis of the valuation which should be the same as was adopted while determining the SOR 2011 rates.</p>	Particulars	Rate per sq. mtr. as per SOR 2011	Rate as on April 2016 with increase @ 2% as per annum	Increase % on 2% increase basis	Rate for SOR 2016 as proposed by KOPT	Increase % over SOR, 2011	1 <sup>st</sup> Belt	30.49	33.66	10.40%	57.06	87.14%	2 <sup>nd</sup> Belt	16.32	18.02	10.42%	45.65	179.72%	
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(xi).	Further, TIL Ltd stated that the proposal of KOPT is totally unjustified, arbitrary and detrimental. The subject land is not a commercial land but it is for industrial use and cannot be developed for commercial objective.																			

1.2. Based on the request made by one of the users viz., Diamond Beverages Private Limited (DBPL), an opportunity was given to them to present their case in the Office of the Authority on 06 March 2017. While presenting their comments, the DBPL has furnished its written submissions. This was forwarded to KOPT for its comments. The submissions of DBPL and the comments of KOPT thereon are tabulated below:

	<b>Diamond Beverage (P) Limited (DBPL) dated 06.03.2017</b>	<b>Reply of KOPT</b>
(i).	DBPL have filed its preliminary objections and suggestions on 1 February 2017. By its letter dated 20 February 2017 DBPL also filed a Valuation Report by Jones Lang LSalle Property consultants India Pvt Ltd (JLL) which proves that even without the necessary discounts, the value of land determined by Colliers at an average value of ₹. 7,63,638/- per cottah, (based on prime and very small residential plots) should be ₹. 5,52,066/- per cottah i.e basic value was inflated by 38.34%.	
(ii).	On 6 March 2017, DBPL submitted its supplementary objection in addition to its preliminary objection and valuation report by JLL. In this supplementary objection, the following additional issues are being placed:	
	(A).Statutory discounts not taken into consideration in the valuation report submitted by KOPT (Colliers Report)	

(a).	Size Discount																																									
(i).	<p>The Colliers Report stated land documents in page 63 of the Report. The sizes of the lands in the said seven sample land documents were negligibly small, on an average 3.5 cottah or 236.189 sq. mtr. against the land of the DBPL being about 7143.11 sq.mtr. Out of the said seven sample plots, only four plots having higher value were considered and average of the said four plots is 4.6 cottahs or 307.695 sq. mtr. The value of the land and area of each as per page 63 of the Volliers Report is furnished by DBPL as Annexure 'A'.</p>	<p>It is stated that plot sizes of KDS land parcels vary widely and in a general Schedule of Rent individual plot wise valuation is not possible. Within every zone there are different sized plots. In this context following may be noted:</p> <p>(i). As per the recommendation of the Valuer, average rates of transactions in the port's vicinity have been considered to even out the wide variations. It is submitted that instead of taking the highest rate of actual transactions, as prescribed in the Land Policy Guidelines, Valuer has considered average value in view of the wide variations in land values furnished by the registration office.</p>																																								
(ii).	<p>The Colliers Report arrived at valuation of ₹. 15,27,276/- per cottah for freehold and residential and negligibly small plots and then by allowing certain discounts arrived at a valuation. The valuation arrived at Colliers and discounts allowed are tabulated below:</p>	<p>(ii). It is further stated that the Guidelines for valuation of immovable properties, 2009 issued by the Income Tax authorities are not statutory in nature and only is intended to be used for the value of immovable properties as required by the tax statutes.</p>																																								
	<table border="1" data-bbox="363 965 796 1346"> <tbody> <tr> <td data-bbox="363 965 395 994">1.</td> <td data-bbox="403 965 603 1043">Page 65: Altogether eleven Transaction have been taken into consideration Average of these eleven Transaction is</td> <td data-bbox="611 965 667 1043"></td> <td data-bbox="675 965 796 1043">₹. 15,18,000 per Cottah</td> </tr> <tr> <td data-bbox="363 1050 395 1079">2.</td> <td data-bbox="403 1050 603 1088">Updated value @ 2% wherever required Final Average Price</td> <td data-bbox="611 1050 667 1088"></td> <td data-bbox="675 1050 796 1088">₹. 15,27,276 per Cottah</td> </tr> <tr> <td data-bbox="363 1095 395 1124">3.</td> <td data-bbox="403 1095 603 1133">Adjustments made thereafter</td> <td data-bbox="611 1095 667 1133"></td> <td data-bbox="675 1095 796 1133"></td> </tr> <tr> <td data-bbox="363 1140 395 1169"></td> <td data-bbox="403 1140 603 1178">(a) (1) – Listing Discount</td> <td data-bbox="611 1140 667 1178">0%</td> <td data-bbox="675 1140 796 1178"></td> </tr> <tr> <td data-bbox="363 1184 395 1214"></td> <td data-bbox="403 1184 603 1223">(b) (3) – Land use</td> <td data-bbox="611 1184 667 1223">25%</td> <td data-bbox="675 1184 796 1223"></td> </tr> <tr> <td data-bbox="363 1229 395 1258"></td> <td data-bbox="403 1229 603 1267">(c) Infra Factor</td> <td data-bbox="611 1229 667 1267">15%</td> <td data-bbox="675 1229 796 1267"></td> </tr> <tr> <td data-bbox="363 1274 395 1303"></td> <td data-bbox="403 1274 603 1312">(d) (4) Ownership</td> <td data-bbox="611 1274 667 1312">15%</td> <td data-bbox="675 1274 796 1312"></td> </tr> <tr> <td data-bbox="363 1319 395 1346"></td> <td data-bbox="403 1319 603 1346">Total Discount is</td> <td data-bbox="611 1319 667 1346">50%</td> <td data-bbox="675 1319 796 1346"></td> </tr> <tr> <td data-bbox="363 1352 395 1382">4.</td> <td data-bbox="403 1352 603 1382">Net Price</td> <td data-bbox="611 1352 667 1382"></td> <td data-bbox="675 1352 796 1382">₹. 7,63,638 per Cottah</td> </tr> <tr> <td data-bbox="363 1388 395 1417">5.</td> <td data-bbox="403 1388 603 1426">Rent per 100 Sq.mtr. per month-7,63,638 <math>6.0\%/12/720*10.763*100=</math></td> <td data-bbox="611 1388 667 1426"></td> <td data-bbox="675 1388 796 1426">₹. 5707.66 per 100 sq.mtr.</td> </tr> </tbody> </table>	1.	Page 65: Altogether eleven Transaction have been taken into consideration Average of these eleven Transaction is		₹. 15,18,000 per Cottah	2.	Updated value @ 2% wherever required Final Average Price		₹. 15,27,276 per Cottah	3.	Adjustments made thereafter				(a) (1) – Listing Discount	0%			(b) (3) – Land use	25%			(c) Infra Factor	15%			(d) (4) Ownership	15%			Total Discount is	50%		4.	Net Price		₹. 7,63,638 per Cottah	5.	Rent per 100 Sq.mtr. per month-7,63,638 $6.0\%/12/720*10.763*100=$		₹. 5707.66 per 100 sq.mtr.	
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(iii).	<p>Depending on the size of a plot, a discount is to be provided. The Directorate of Income Tax for the purpose of Income Tax and Wealth Tax has made Guidelines for valuation of Immoveable Properties, 2009, which is statutory in nature and applicable for valuation all over India.</p> <p>The relevant portion of the said guidelines is attached by DBPL as Annexure 'B'.</p>																																									
(iv).	<p>The said Guidelines, inter alia, provides that in general, large plots fetch less unit price due to less number of buyers hence due to less availability of number of buyers for large size plots, +/-0.5% per 100 sq.mtr. can be considered reasonable.</p>																																									

	<p>(v). Applying the above formula, the valuation arrived at by Colliers should be further discounted inasmuch as the four sample plots were on an average 307.695 sq.mtr., whereas the plot-size of the DBPL is 7143.11 sq.mtr., in the following manner: Discount factor @ 0.5% per 100 sq.mtr.</p> <table border="1" data-bbox="359 499 780 568"> <tr> <td>Size of plot of the DBPL</td> <td>7143.11 sq.mtr.</td> </tr> <tr> <td>Average size in Colliers Report</td> <td>307.695 sq. mtr.</td> </tr> <tr> <td>Difference</td> <td>6835.415sq. mtr</td> </tr> </table> <p>Discount factor (6835.415*0.5) = 34.17%</p> <table border="1" data-bbox="359 689 780 831"> <tr> <td>Average value as per Colliers Report</td> <td>₹.763638 per cottah</td> </tr> <tr> <td>Size discount (₹. 763638*34.17%)</td> <td>₹. 260935 per cottah</td> </tr> <tr> <td>Net value after size discount</td> <td>₹. 502703 per cottah</td> </tr> <tr> <td>Therefore, rate per 100 sq.mtr. per month (₹.502703 * 6%/12/720*10.763*100)</td> <td>₹. 3757.35 per 100 sq.mtr. per month</td> </tr> </table>	Size of plot of the DBPL	7143.11 sq.mtr.	Average size in Colliers Report	307.695 sq. mtr.	Difference	6835.415sq. mtr	Average value as per Colliers Report	₹.763638 per cottah	Size discount (₹. 763638*34.17%)	₹. 260935 per cottah	Net value after size discount	₹. 502703 per cottah	Therefore, rate per 100 sq.mtr. per month (₹.502703 * 6%/12/720*10.763*100)	₹. 3757.35 per 100 sq.mtr. per month	
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	<p>(vi). Valuation of the plots for the purpose of auction-cum-tender, for granting lease came up for consideration by the Land Allotment Committee LAC) in its recommendation dated 20 May 2015 accepted that Size Discount in accordance with Guidelines for Valuation of Immoveable Properties, 2009 made by the Income Tax Department should be followed and applied the said discount. A copy of the recommendation dated 20 May 2015 is attached by DBPL as Annexure 'C'.</p>	<p>(iii). It is relevant to mention here that the Board Resolution dated 8.6.2015 was in relation with the Land Policy Guidelines 2014(pre-revised) where it was required to fix Reserve Price (Annual Rent) in respect of <u>each individual plot</u> based on several factors. Accordingly KOPT Board decided to adopt such valuation method to arrive at a <u>realistic value</u> of the <u>individual plot</u> to be offered in tender with reference to the value of the <u>reference plot</u>. This is not the case in respect of framing of general Schedule of Rent which would uniformly applicable to all the plots in a rental zone.</p>														
	<p>(vii). The said recommendation by LAC was considered and accepted by the Board of Trustees of KOPT in a resolution dated 8 June 2015 being Item No. A/09/KDS/EST/3/06/2015(Part-I). A copy of the said resolution dated 8 June 2015 is attached by DBPL as Annexure 'D'.</p>															
	<p>(viii). The KOPT having accepted that a discount should be allowed due to size of a plot at the rate prescribed in the Guidelines for Valuation of Immovable Properties, 2009 issued by the Income Tax Department, it was incumbent upon the KOPT to allow such size discount in the proposal made for approval of SOR.</p>															
	<p>(ix). The KOPT is guilty of suppression of material facts and the proposal by KOPT is defective and does not merit consideration for withholding a material element of valuation.</p>															

	<p>(x). Such size discount should be allowed on admission.</p> <p>(xi). DBPL has obtained a valuation report from a reputed valuer empaneled with the Hon'ble High court at Calcutta and also other statutory authorities, who also has opined to allow size discount in accordance with Guidelines for valuation of Immoveable Properties, 2009 published by Income Tax Department. A copy of the said Valuation Report dated 27 February 2017 is attached by DBPL as Annexure 'E'.</p> <p>(xii). In any event, such discounting factor due to size being statutory in nature, ought to be applied and the tariff should be fixed after allowing such discount.</p>																			
	<p><b>(B). Discount due to leasehold</b></p> <p>(i). Colliers Report has allowed a discount for free-hold to lease-hold of 15% without providing any legal support thereof.</p> <p>(ii). Schedule III of the Wealth Tax Rule framed under Section 7(1) of the Wealth Tax Act provides for valuation of immoveable properties. Rule 3 of the said Rules provides that in case of freehold property, the value is net rent multiplied by 12.5, whereas in case of lease of less than 50 years the multiplier is 8. For these for 30 years, the multiplier should be even less. A copy of the relevant portion of the Wealth Tax Rule is attached by DBPL as Annexure 'F'.</p> <p>(iii). Therefore, for leasehold land for less than 50 years, the value will be discounted by <math>[(12.5 - 8) / 12.5 = 36\%]</math>.</p> <p>(iv). Thus, additional discount to be allowed for freehold to leasehold is (36% -15%) of 21%. Therefore, total discount to be allowed (apart from size discount) is as follows:</p> <table data-bbox="357 1816 702 2000"> <tr> <td colspan="3">Allowed by Colliers</td> </tr> <tr> <td>Listing</td> <td>-----</td> <td>0%</td> </tr> <tr> <td>Land use</td> <td>-----</td> <td>25%</td> </tr> <tr> <td>Infra factor</td> <td>-----</td> <td>15%</td> </tr> <tr> <td>Ownership</td> <td>-----</td> <td>15%</td> </tr> <tr> <td><b>Total</b></td> <td></td> <td><b>50%</b></td> </tr> </table>	Allowed by Colliers			Listing	-----	0%	Land use	-----	25%	Infra factor	-----	15%	Ownership	-----	15%	<b>Total</b>		<b>50%</b>	<p>Land within KDS generally have leasehold right for 30 years. The Valuer has assessed the factor to vary between 10 - 20% depending on location and therefore, a discount factor of 15% has been considered over the market value of land. They have considered three approaches namely :</p> <p><b>(i). Factors derived on international research report.</b> (Factor varies between 8-17%)</p> <p><b>(ii). Terminal Capitalization rate (Yield)</b> of series of annual rent cash flow over the period lease term define the reversion multiplier (Factor is 17.41%)</p> <p><b>(iii). The difference of NPV</b> of series of fixed annual payments (say rent of INR 1000) with an annual escalation of 2% and considered discount rate of 8% (Approximate G Sec Rate).(Factor derived is 17.71%)</p> <p>It may be relevant to mention here that discount factor of 15% was considered and approved by TAMP while framing the SOR of 2011 also.</p> <p>It is stated that the cited rule is not applicable in the valuation of port lands as it relates to assessment of fair value in respect of wealth tax. Moreover the aforesaid comparison has been made on buildings with or without appurtenant land and not only on land. In KPT however comparisons were made on land values only and hence the cited provision is not applicable.</p>
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	<p>(totalling mistake, it should be 55%)</p> <p><u>Additional to be allowed : 21%</u></p> <p>Total discount to be allowed :71%</p>	
(v).	Applying the above discount, assuming but not admitting the Valuation in Colliers Report, the net value should be ₹. 442910/- per cottah (i.e. ₹. 1527276/- minus 71%) and final rate should be ₹. 3310.44 9₹. $442910/- * 6\% / 12/720*10.763*100$ per 100 sq.mtr. per month against ₹. 5707.66 per 10 sq.mtr. proposed by KOPT.	
(vi).	The lessees of KOPT including the DBPL are entitled to both the discounts as above. The above discounts being statutory in nature was binding on Colliers, binding on KOPT and also binding on TAMP.	
(vii).	However, if both the discounts (i.e size discount and ownership discount) are allowed, the SOR will be lesser than the SOR of 2011. Though not obliged to, but to buy peace, the DBPL prays that if at least one of the above discounts is allowed, the same will be reasonable.	
(b).	Value of land was arrived at by Colliers Report on the basis of undisclosed material and the value was deliberately inflated.	<p>It is denied that KOPT's proposal is without any document or basis. The proposal of KOPT is in conformity with the methodology prescribed in the Land Policy Guidelines and is supported by a detailed analysis. All the documents relied upon in the analysis are attached to the report of the valuer. In this context it is submitted that the transaction data collected by KOPT from Sub-registry office at Behala vide its letter no Lnd.5696/2 dated 22.06.2016 has already been forwarded to TAMP vide this office letter No. Lnd.464/F/RFC/XIX(Addl)/17/3431 dated 18.1.2017.</p> <p>It is reiterated that valuation of the land parcel in KDS has been carried out by engaging an expert agency i.e. M/s. Colliers International (I) Property Services Ltd. They have collected data from Sub-Registry Offices as well as from their own data base and also considered the offer received in recent tenders finalised in KDS. To arrive at rates, appropriate influencing factors have been duly considered by the valuer which has been detailed in the valuation report. Land Policy Guidelines 2014 as amended vide letter dated 17.7.2015 specifies at Clause 13.a. (ii) that Highest rate of actual relevant transactions registered in <b>last three years in the Port's vicinity</b> with appropriate</p>
(i).	The Colliers Report shows that they have proceeded on a common valuation after allowing certain discounts. For the purpose of common valuation at page no. 63 of the Colliers Report, they have relied upon seven transactions.	
(ii).	However, while arriving at a common valuation at page 65 of the Colliers Report, they have been taken four [item no. (i) to (iv)] out of the above seven valuation having higher value and added seven valuations having higher value added seven more valuation without disclosing any particulars thereof. From the above table, it will be evident that the higher valuation at Thana Maheshtala and Behala have been taken into account along with seven more valuations which also are of Thana Maheshtala/Behala, having higher valuation.	
(iii).	No particulars or details or size of land are available in the Colliers	

	<p>Report in respect of the seven additional valuations taken into consideration. The Colliers Report deserves to be rejected for consideration of undisclosed materials, i.e seven additional valuations due to violation of the principals of natural justice.</p> <p>(iv). The Colliers Report is also bad as it is arbitrarily inflated the valuation. If average of all the seven valuation stated in page 63 of the Colliers Report are taken, it will be ₹. 1368999/- per cottah instead of ₹. 1527276/- per cottah taken by Colliers by picking and choosing the higher to inflate the valuation to please KOPT.</p> <p>(v). The seven valuations at page 63 is assorted valuation of five Thanas, but only four out of the seven which belong to Maheshtala/ Behala Thana and are more developed localities, have been taken in the Colliers Report without giving any explanation therefore, to inflate the price somehow.</p> <p>(vi). The Colliers Report is unreasonable and therefore, DBPL is requesting to conduct a prudence check to arrive at a correct SOR after allowing the statutory discounts.</p>	<p>escalation factor to be considered for determining SOR.</p> <p>The valuer, has however considered only the average rates of transactions in the port's vicinity have been considered to even out the wide variations.</p>
	<p>(c). The classification of lands, prevailing since 1983 Scale of Rates, according to Zones, have been reclassified treating unequals as equals which renders the Colliers Report arbitrary, unreasonable and unconstitutional.</p> <p>(i). The Colliers Report has reclassified various areas within port area and the existing zones prevailing since 1983 have been arbitrarily abolished. As a result, unequals have been sought to be made equals which is against the mandate of Constitution of India. For example, Zone 16 and 17, has been reclassified as "Cluster Area 1, High Zone."</p> <p>(ii). Zone 16 comprises of plots on the sides of Taratala Road from Diamond Harbour Road to Brace Bridge and Zone 17 comprises of plots on the sides Taratala Road from Brace Bridge to Circular Garden Reach road.</p> <p>(iii). In para 4.3.(xvi) of the Colliers Report, the basis of valuation has been alleged to be based on road-</p>	<p>This point has already clarified vide this office letter No 464/F/RFC/XIX (Addl)/17/3698 dated February 17, 2017. The main points are summarised below:</p> <p>(i). It is stated that the width of the road (Taratala Road Zone 17) in front of this particular property is 100ft.</p> <p>(ii). It is further submitted that the Road width at Zone 16 varies from 100ft to 120 ft and in Zone 17 from 100ft to 110 ft. accordingly there is hardly any difference in Road width to influence the FAR for their existing purpose. It is submitted that as per Kolkata Municipal Regulations the Permissible Floor Area Ratio (FAR) for roads of width 60 ft and 120 ft is same for the proposed uses for Diamond Beverage i.e. Industrial and Storage. Moreover the plot of Diamond Beverage and other adjoining plots at Zone 17 are having access to Budge Budge Road on the other side.</p> <p>(iii). It is submitted that Valuation and clubbing of Zones has been done by the valuer in accordance with the</p>

	width and Floor Area Ratio (FAR) has not been considered. In para 4.3(xiii), it is proposed that the second belt will be charged uniformly at 80% of the first belt rate.	parameters detailed in the report.
(iv).	It is submitted that the valuation report is baseless and self-contradictory and no reliance can be placed thereon.	(iv). It is not at all correct that zone 17 is under developed and slum area. It requires mention that reputed industrial units of M/s. Tractor India Ltd., M/s. Eternet Everest, M/s. Visuvius India Ltd. etc. are all situated in this zone.
(v).	Zone 16 i.e. Taratala Road from Diamond Harbour road to Brace Bridge / Budge Road is a four lane road with average width of more than (25 + 25) 50 feet with dividers at the centre of the road. Whereas Zone 17, i.e Taratala Road from Budge Road to Circular Garden Reach Road is a narrow road of average width of 30 feet without any divider and shanties encroaching the road, with high congestion. In this connection, maps along with photograph of Taratala Road upto Brace Bridge (zone 16) and beyond Brace Bridge (Zone 17) are annexed by DBPL as Annexure 'G'. DBPL craves leave to exhibit a video clip showing both the zones at the time of hearing.	(v). Regarding the belting it is submitted that <u>KOPT Board in Reso. dated 24.8.2016 recorded "The size of land area affects the value of plots. So far, KOPT has been following the principle of belting [i.e. higher rate of rent for first 50 m from the main road and lower rate of rent beyond 50 m from the main road] which, in turn, allowed lower average unit rate for larger plots. Valuer is also in agreement with such principle. Accordingly, it is recommended that the derived rates would be applicable for 1<sup>st</sup> belt only. Second belt would be charged uniformly at 80% of the 1<sup>st</sup> belt rates. However, the belting should be uniform and applicable for all zones where it has been allowed in the Schedule of rent of 2011. In other words, the areas within 1<sup>st</sup> 50 mtrs of Road will be charged at 1<sup>st</sup> belt rate for all such zones and areas beyond such 1<sup>st</sup> belt would be charged 2<sup>nd</sup> belt rate which will be 80% of 1<sup>st</sup> belt rate."</u> It is further stated the decision to apply a cap on increase in rates that capping in rates at 75% was in respect of first belt only and for second belt 80% of first belt rate has been considered uniformly.
(vi).	If the clusters were made on the basis of road width, zone 16 and zone 17 having road-width of 50 feet with divider and 30 feet could have been clubbed and / or equated.	(vi).It requires mention that for an adjoining Land (same zone 17) the same party has agreed to pay uniformly for the second belt and first belt which is Rs 4133.00 per 100 sq.m per month in May 2014).
(vii).	Historically, since 1988, Zone 16 and Zone 17 had separate SOR and the rate of Zone 17 (1 <sup>st</sup> Belt) was 80% of the rate applicable to Zone 16. In the premises, separate valuation should be mad for Zone 16 and Zone 17 and they should not be clubbed as unequals cannot be treated as equal.	(vii).In such event the agreed rate for second belt in zone 17 by the aforesaid party duly updated @ 2% p.a becomes 4300.00 per 100 sq.m per month at present. Whereas as per the proposed SoR the rate for second belt is Rs 4565.00 per 100 sq.m per month (hence increase is only <b>6.16%</b> for the second belt over their already agreed rate).
(viii).	Since 1988, zone 17 being an under-developed and slum area, second belt of zone 17 was valued at 53% of the first belt SOR. By the impugned Colliers Report all second belt areas have been uniformly valued at 80% of the first belt, without assigning any reasons or basis or justification, as there is none. In earlier SORs the 2 <sup>nd</sup> Belt were discounted on the basis of location and of the parameters which should be followed.	(viii). It requires mention that rate revision proposal is in accordance with stipulations in Land Policy Guidelines (clause No 13). In various judgements
(ix).	Due to clubbing of Zone 16 and	

	<p>Zone 17 and valuing the second belt uniformly at 80% of the first belt, the existing rent of ₹. 1767/- per 100 sq. mtr. (as per SOR) for the plot of the DBPL has been proposed to be increase to R.s 4565/- per 100 sq. mtr. Or a hike of 158% i.e the rate has been proposed to be increased by 2.5 times which is absurd. The said absurd proposal may kindly be rejected.</p> <p>A chart showing the increase in SOR for Zone 16 and Zone 17 since 1988 is attached by DBPL as Annexure 'H'.</p>	<p>of Apex Court and Calcutta High Court it was recorded that “..... <i>the price that are prevalent in the schedules of the Port Trust are not based on profiteering...</i>”. In one of such orders, the Judgement of apex court (Dwarakadas Maraftia &amp; Sons as cited by the party) has also been dealt.</p>
(x).	TAMP may conduct a prudence check and determine SOR which is reasonable.	(ix). It is further stated that West Bengal Premises Tenancy Act is not applicable for KOPT properties.
(xi).	West Bengal Premises Tenancy Act, 1997, provides for increase in rent at the rate of 5% every three years. The same principle should be followed as the increase of rent in respect of tenancy of Port Trust, since the Rent Control Act applies, as laid down by the Hon'ble Supreme Court of India in the case of Banatwala & Co. vs LICI & Anr. Reported in (2011) 13 SCC 446.	
(xii).	<p>KOPT being an organ of the Government and a model cannot act like a private landlord or be actuated by profit motive. In the case of Dwarkadas Marfatia &amp; sons vs. Board of Turstees for the Port of Bombay, the Hon'ble Supreme Court held as follows:</p> <p><i>“ We are inclined to accept the submissions that every activity of a public authority especially in the background of the assumptions on which such authority enjoys immunity from the rigours of the Rent Act, must be informed by reasons and guided by the public interest. All exercise of discretion or power by public authorities as the respondent, in respect of dealing with tenants in respect of which they have been treated separately and distinctly from other landlords on the assumptions that they would not act as private landlords, must be judged by that standard. If a government policy or action even in contractual matters fails to satisfy the test reasonableness, it would be unconstitutional.</i></p>	
(xiii).	Therefore, TAMP may kindly	

	<p>determine SOR zone-wise as was prevalent since 1983 and not according to cluster-wise as arbitrarily proposed in the Colliers Report.</p>	
	<p>(d).The “Assumptions and Limiting Conditions” made in the Colliers Report makes the same grossly arbitrary and not worthy for considerations.</p> <p>(i). At para 1.5 at page 6 of the Colliers Report, it is stated <i>that “We have not physically measured nor verified the area of the subject property”</i>. The value of a property depends on the area of the property. Without physically inspecting the property, no proper valuation can be made.</p> <p>(ii). At page 6 para 1.8 the Colliers Report states <i>“adjustment have been made for location, time amenities and other relevant factors, when comparing such sales price against the subject property.”</i> No adjustment has been made for SIZE of the plots considered for valuation and the size of the plots let out by KOPT for industrial purposes which makes the report unreasonable.</p> <p>(iii). At page 7 para 2.1, under the heading, “Current Use”/ it is stated that <i>“plots in all the existing zones of SOR are being used for industrial purpose by different tenants along with few institutional usages”</i>. Admittedly, the plots under KOPT are used for industrial purpose, however, a common valuation was arrived at by taking four out of seven valuations stated at page 63 (<b>Annexure-“A”</b>) of the Report which all were situated. A small residential plot and a large industrial plot cannot have same valuation. The basis of valuation in the Colliers Report was incorrect.</p> <p>(iv). At page 7, para 2.1, under the heading “Land Zoning” it is stated that land Zoning has been done based on Surrounding Condition and Access Road Width. This Statement is incorrect because as stated hereinbefore “Access Road Width” of zone-16 and 17 are not same BUT Colliers have clubbed Zone 16 and 17 under same Cluster Area- High Zone.</p>	<p>KOPT reiterate that the valuation exercise has been done strictly in conformity with the stipulations of Land Policy Guidelines. In this context, para 4.3- Basis of Valuation of the Valuation Report and also the certificate given by the Valuer at page 62 of the Valuation Report.</p> <p>Regarding the NHB data as cited by the party it is humbly submitted that the SOR of 2011 was based on the transaction data of three years of the valuation report submitted in 2009 by KOPT (i.e 2006-2009). The data revealed by party shows that the valuation index is 91 % to 111% higher in March 2015 over the value as was in 2007 for three different areas. Whereas KOPT Board has limited the enhancement to 75% of the existing SOR which is lesser than the data provided by DBPL.</p>

	<p>(v). The basis of Valuation, in particular para 4.3(iii) at page 20 of the Colliers Report, provides that <i>“The transactions of neighboring land parcels referred to in the valuation report, were mostly for freehold, developed land for non-industrial purpose”</i>.</p> <p>Para 4.3(v),- “As the individual value areas have several transactions of different magnitudes, average rate of actual relevant transactions within last three years in the vicinity of such areas, from our own database have been used to derive the market rate to even out the inconsistencies in individual transaction.”</p> <p>Para 4.3(vi) - “Land parcels of KDS are mostly allotted on lease for extension/ contribution of existing industry and also for stronger and warehousing-related purposes and other allied activities”.</p> <p>Para 4.3(vii) – “The land parcel of KDS is subject to various restrictive covenants (like prohibition on sub leasing requirement of obtaining prior sanction of KoPT for construction, transfer of lease, mortgage etc.), as mentioned in Land Policy Guidelines.”</p> <p>Para 4.3(viii) - the actual site conditions in port areas are not comparable with the adjacent areas or other parts of the city. The roads and drainage in Dock and Howrah areas are not maintained by civil authorities through public thoroughfares run through such areas.....”</p>	
	<p>(vi). The basis of valuation as stated in the Colliers Report is self-conflicting and makes the report unrealistic.</p>	
	<p>(vii). At page 29, Colliers have referred to (National Housing Bank) NHB Index, an arm of Reserve Bank of India and mis-calculated to arrive at the “Proposed Escalation” for KDS Schedule of Rent (Forecast) for the year 2016 onwards.</p> <p>A perusal of Data published by NHB will reveal otherwise.</p> <p>When Colliers / KOPT have themselves relied on NHB data for future escalation, they were bound and obliged to rely on the same</p>	

	<p>very Data for determining the Actual Valuation Trend of the Properties for the period 2011 to 2016. For the period 2012 to March 2015 the NHB Report shows that for Kolkata the Property Value for Thaurpukur has decreased from 235 to 211 and for Maheshtala there is marginal increase from 185 to 193 points but the Colliers Report has proposed increase by 158% and KOPT has proposed increase by 75%. DBPL has enclosed data published by NHB along with a summarized statement as Annexure 'I'.</p>	
(viii).	<p>DBPL stated that TAMP may ignore Colliers Report and determine SOR by conducting a prudence check.</p>	
(ix).	<p>Appendix 1 : Caveats and Assumptions (page 91) – Para 4 – 4.1 provide as follows:</p> <ul style="list-style-type: none"> <li>• “Environment and Planning – We have obtained only verbal town planning information. It is your responsibility to check the accuracy of this information by obtaining a certificate under the appropriate legislation.</li> <li>• KOPT, inspite of knowing the restriction imposed by Kolkata High Court / West Bengal Pollution Control Board, did not inform the same to Colliers as a result the valuation arrived at by Colliers without taking into account restrictions for expansion of the existing industries, was inflated.</li> <li>• Page 92 – Para 6.2 – “(b) Valuer is not required to carry out inspection of the property of inspection of comparable properties.”</li> </ul> <p>On the basis of such comments the Colliers Report cannot be accepted to be reasonable.</p>	

	<p>(e). The proposal by KOPT is otherwise not in accordance with law and does not merit for consideration.</p> <p>(i). The Colliers Report recommends increase of SOR by more than 100% in many cases. The Board of trustee of KOPT has taken a resolution that there will be a cap of 75% on the proposed hike from SOR of 2011. <i>Resolution No. R/75/KDS/EST/3/08/2016: Resolved after to recommend the proposed SOR for land and structures of KDS and HDC as detailed in the agenda, with the conditions that the Land of KDS, the capping may be done at 75% of the existing rates (i.e. of updated SOR rate as of 7.04.2016)</i>” A copy of the KOPT resolution is annexed by DBPL as Annexure ‘J’.</p> <p>(ii). In accordance with the Land Policy Guidelines made by the Central Government, the proposal for determining SOR is to be made by the Board of KOPT.</p> <p>(iii). However, the proposal made by KOPT in respect of the land of the DBPL proposes increase by 153%.</p> <p>(iv). Therefore, the proposal made by KOPT was not made by the Board of Trustees of the KOPT and hence, the proposal being not in accordance with the Land Policy Guidelines should not be considered and KOPT should be directed to file a fresh proposal zone-wise and on the basis of comparable standards.</p> <p>(v). As already stated, in the preliminary objection by DBPL the Port Trust land is subject to restriction imposed by West Bengal Pollution Control Board and Orders passed by the Hon’ble High Court at Calcutta restricting and regulating expansion of existing industries and also setting up of new industries. Such restrictions and regulations were not considered in the Colliers Report. Necessary discounts should also be allowed on this issue.</p> <p>(vi). Till August 2013, certain industries though situate within KOPT area were entitled to various incentives under the West Bengal State Support for Industries Scheme (WBSSIS). For Agro and Food Processing Industries, about 80% of the capital investment was receivable from the State government by way of incentives.</p>	<p>The issue of belting was replied in detail vide this office letter No Lnd 464/F/RFC/XIX (Addl)/17/3697 dated February 17, 2017 , which may please be referred to.</p> <p>Regarding restrictions in industry it is reiterated that in the port area, all permissible usages except residential purpose as per Land Use Plan of the Kolkata Metropolitan Development Corporation are generally allowed. Since the price of land having industrial usage, remains on lower side in comparison to the land having residential or commercial or mixed usage, a discount @ 25% is given for industrial usage uniformly for all areas under KDS. Though there may be restrictions on new industrial use, The existing industrial users like DBPL would continue to get benefit of lower rate available for industrial use.</p> <p>The other points mentioned have no relevance to the rate revision exercise.</p>
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	<p>(vii). After August 2013, no incentive are available to expansion of any existing unit or setting up of a new unit within KOPT area. However, lands situate nearby the KOPT lands within the same Thana are eligible for the incentives. The value of land also depends on this factor. The freehold lands taken as the basis in the Colliers Report are eligible for incentives under WBSSIS and a discount should be to KOPT lands on this score also.</p> <p>Copies of the correspondence DBPL had with Government of West Bengal, Director of Industries and Commerce and Industry Department in regard to availability of the Incentives are enclosed by DBPL as Annexure K.</p>							
	<p>(F). The valuation Report by JLL one of the world renowned property valuers should be considered as it is more logical than Colliers Report.</p> <p>(i). The DBPL has engaged the world renowned valuer M/s Jones Lang Lsalle Property consultants India Pvt Ltd (JLL) whose Report has already been submitted by DBPL. The said report proves that the Report by Colliers is unreasonable and impractical. It is pertinent to mention that the turnover of Colliers for the year 2015-16 was ₹. 176 Crores whereas that of JLL was ₹. 1760 Crores.</p> <p>Valuation Exercise done by JLL</p> <table border="1" data-bbox="347 1361 794 2033"> <tr> <td data-bbox="347 1361 411 1547">(a)</td> <td data-bbox="411 1361 794 1547">JLL have provided Five Sales Transaction and used Three out of the above five to determine the value of the Land as per Para 4.4 (page no 21 &amp; 22) of their Report.</td> </tr> <tr> <td data-bbox="347 1547 411 2011">(b)</td> <td data-bbox="411 1547 794 2011">           Under para 4.5 (page no. 22 &amp; 23) parameters for price adjustment have provided for:           <ul style="list-style-type: none"> <li>(i).Location of neighbourhood / Infrastructure</li> <li>(ii).Ownership (freehold / Leasehold)</li> <li>(iii).Land Usage.</li> <li>(iv).Restriction / Prohibitions relating to usage.</li> <li>(v). Property Tax related issue.</li> </ul> </td> </tr> <tr> <td data-bbox="347 2011 411 2033">(c)</td> <td data-bbox="411 2011 794 2033">At page 24 of the Report they</td> </tr> </table>	(a)	JLL have provided Five Sales Transaction and used Three out of the above five to determine the value of the Land as per Para 4.4 (page no 21 & 22) of their Report.	(b)	Under para 4.5 (page no. 22 & 23) parameters for price adjustment have provided for: <ul style="list-style-type: none"> <li>(i).Location of neighbourhood / Infrastructure</li> <li>(ii).Ownership (freehold / Leasehold)</li> <li>(iii).Land Usage.</li> <li>(iv).Restriction / Prohibitions relating to usage.</li> <li>(v). Property Tax related issue.</li> </ul>	(c)	At page 24 of the Report they	<p>As per the Land Policy Guidelines, the valuation report considered by the Board of Trustees may be taken into account.</p>
(a)	JLL have provided Five Sales Transaction and used Three out of the above five to determine the value of the Land as per Para 4.4 (page no 21 & 22) of their Report.							
(b)	Under para 4.5 (page no. 22 & 23) parameters for price adjustment have provided for: <ul style="list-style-type: none"> <li>(i).Location of neighbourhood / Infrastructure</li> <li>(ii).Ownership (freehold / Leasehold)</li> <li>(iii).Land Usage.</li> <li>(iv).Restriction / Prohibitions relating to usage.</li> <li>(v). Property Tax related issue.</li> </ul>							
(c)	At page 24 of the Report they							

			have determined a CAGR based on the Data published by National Housing Bank (Reserve Bank Of India) for the areas just adjoining to KOPT Land and determined the same at 3.5%.
		(d)	Finally, as per Tabulated Chart they have extrapolated the values of the three transaction and have applied the various Discount factors detailed in the Statement and determined a final rate for the land at ₹. 552066 per cottah. (page no. 30)
		(e)	This rate JLL have applied to the premium stretch of road, namely Taratala Road, zone-16, 1 <sup>st</sup> Belt and thereafter, determined the Rates for Zone-17, 1 <sup>st</sup> Belt and 2 <sup>nd</sup> Belt respectively applying the previously established Discounting percentage as per KOPT SOR.
		(f)	JLL has not considered the sale transactions of two plots namely (b) – (C) through having lower prices.
		(g)	They have also enclosed Two Income Tax Appellate Tribunal Decisions providing a Discount for Leasehold Land varying from 33% to 67% and have adopted a figure of 40%.
		(h)	JLL has subsequently forwarded a Comparison Chart comparing the valuation between the Two Valuers, a copy is attached by DBPL as Annexure – 'L'.
	(ii).		The relevant extracts from the said Report are enclosed by DBPL as Annexure 'L'.

1.3. Port Tenants Welfare Association (PTWA) vide its email dated 27 February 2017 had furnished their comments and had also requested us to fix the hearing to present its case before the Authority.

The Competent Authority had acceded to the request made by PTWA and had given an opportunity to PTWA to present its case in the office of TAMP on 6 March 2017 at 3.00 p.m. A mail in this regard was issued to PTWA on 02 March 2017.

In this connection, the PTWA vide its e-mail dated 03 March 2017 made the following submissions:

- (i). It is not possible to arrange for representation on the 6th March 2017 at Mumbai due to shortage of time.
- (ii). Since the land and building are in Kolkata and Howrah, we will be grateful if hearing is given to us at Kolkata or sufficient time be given to make representation.
- (iii). You are requested to not take any step pursuant to the proposal till reasonable opportunity is given to us.

All the users relating to the case in reference have been given an opportunity to attend the joint hearing held by us in Kolkata on 24 November 2016. The joint hearing notice was issued to all users to attend the joint hearing vide our letter dated 17 November 2016. Based on the intimation many of the users have attended the joint hearing in Kolkata.

Considering that a joint hearing on the case has already been held in Kolkata, it was not possible to again hold a hearing in Kolkata. Therefore, PTWA was requested to present its case before the Competent Authority on 6 March 2017 at 3.00 p.m. at the office of TAMP. In the event, if they are unable to present the case on the scheduled date, PTWA was requested to give its submissions in writing within a week, which would be taken into account while finalizing the KOPT proposal in reference. However, the PTWA has not responded. Its earlier comments dated 27 February 2017 and the comments of KOPT thereon have already been brought out.

2. A joint hearing on the case in reference was held on 24 November 2016 at the KOPT premises in Kolkata. At the joint hearing, the KOPT made a brief power point presentation of its proposal. At the joint hearing, the KOPT and the users/ user organisations have made their submissions.

**Colliers International (Valuer on behalf of KOPT)**

- (i). In Valuation of Land of KDS, land parcels have been divided in several Clusters depending on their geographical location and further sub-

divided into 1 to 4 value areas depending on the available infrastructure.

- (ii). State Government Ready Reckoner is not available in West Bengal. The transaction of neighbouring land parcels were mostly for free-hold; developed land for non-industrial purpose, which have been enhanced by 2% p.a. to arrive at the current value, wherever required. Average rate of actual relevant transactions within last three years in the vicinity obtained from the Sub-registry offices and also from Colliers International own database
- (iii). Land parcels of KDS are mostly allotted on lease for extension/ continuation of existing industry and also for storage and warehousing-related purposes and other allied activities and is subject to various restrictive covenants (like prohibition on sub-leasing, requirement of obtaining prior sanction of KOPT for construction, transfer of lease, mortgage, etc.).
- (iv). We have considered some adjustment factors viz., Listing Discount @ 5% (refers to the discounting for negotiation/ bargaining between the prospective buyer and prospective seller), Time Adjustment @ 2% (to update the transaction value obtained from SRO), Land Use discount @ 25% (towards industrial use, in comparison to the land having residential or commercial or mixed usage), Infrastructure Adjustment (varying from +10% to -25%) (towards available infrastructure), Ownership @ 15% (towards lower pricing of Leasehold land parcels as compared to the freehold ones), to arrive at the market value of land.
- (v). An annual Yield at 6% of the market valuation considering the present trend in Kolkata region is recommended. Annual escalation has been recommended as 2.5% on the basis of market survey. Both are in conformity with the Land Policy Guidelines.

- (vi). The Valuer briefly explains the method/ approach followed by them for valuation of KOPT lands.
- (vii). To remove certain in-built anomalies in the existing rent schedule of KOPT in respect of certain zones, it was recommended that the hike in rate may be capped at 100% of existing rates. However, Board of Trustees have recommended capping at 75%.
- (viii). With regard to buildings and structures, Valuation of structures has been done by estimating the depreciated replacement cost method.
- (ix). The Valuer briefly explains the method/ approach followed by them for valuation of Buildings & Structures.
- (x). The hike in rate of rent of buildings/ structures may be capped at 75% of the existing rates (i.e. updated SOR rate)
- (xi). There is no rate for advertisement hoardings in the extant SOR. A rate of ₹. 3530/- per sq.ft per year is proposed for entire KDS, based on the highest tendered rates obtained by KOPT, KMC and Eastern Railway.
- (xii). The methodology adopted by the valuer for valuation of HDC is identical in broader sense, except the yield for structure at HDC has been considered to be 9% per annum of the market value and the Escalation rate for the proposed SOR has been considered as 2% per annum.
- (xiii). We have all the relevant documents with regard to the basis of the SRO rates considered by us.
- (xiv). The discounting factor of 15% for conversion from freehold to leasehold land was considered even in the 2011 revision also.

- (xv). The rentals for the Hari Mohan Ghosh (HMG) Road area has been reduced with effect from 2011 onwards. Hence, the rates would be subject to escalation.
- (xvi). As per the Land Policy Guidelines, the yield has to be atleast 6% and annual escalation has to be minimum 2%.
- (xvii). The port is bound to follow the Land Policy Guidelines to determine the value of the land. We have analysed all the five factors listed in the Guidelines for Valuation of the lands.
- (xviii). The escalation factor of 5.1% is levied, as it is prescribed in the respective Licence Agreement.
- (xix). The Dock Zone has been divided in various clusters, which has further been divided into sub-zones, in the process of determining the value for a relevant area of land.
- (xx). Depreciation rate for structures has been realistically considered at 50%, taking into account the average age of the properties.
- (xxi). Given that the Land Policy Guidelines stipulates fixation of rentals every five years, the exercise of review of the Rent Schedule for the land and buildings of KOPT at Haldia and Kolkata is regularly undertaken once in five years.
- (xxii). We know that the roads are not well maintained. However, the KOPT has already initiated the work in this regard in a phased manner.
- (xxiii). The Land Policy Guidelines prescribes the formula to arrive at the upfront payment. We have just applied the same.
- (xxiv). Though the Land Policy Guidelines stipulates considering the value of the highest transaction while determining the value of the land, we

have taken the value of the average transaction. This approach will be beneficial to the users.

### **KPSEWA**

- (i). We now present only our preliminary objections. We need some more time to give our detailed response.
- (ii). The Valuation Report is not supported by any documents. The Valuation Report states that the Real estate market in India is unorganized and there are no official market databases/ sources for their prevailing market rates and that the information pertaining to the sales/ listing data has been obtained from sources deemed to be reliable however no written confirmation or verification was made available and hence the analysis is limited to that extent. Based on the above assumption itself, the Valuation Report should be ignored as the Valuer has not taken any responsibility for the Valuation.
- (iii). Since 2011, the property value in Kolkata is stagnant. Therefore, there is no justification on the part of KOPT to seek any increase. Infact, the SOR of 2011 itself was much higher than the value of the properties as on date. Therefore, the existing SOR should be reduced.
- (iv). KOPT is a leasehold land. To arrive at the value for a leasehold land from freehold land, it is settled law that a discounting factor of 50% is to be considered.
- (v). Considering 6% yield is an incorrect way of determining the applicable market rent. It has to be considered at 3% of the market value.
- (vi). The SOR fixed for Hari Mohan Ghosh Road in October 2016 should not be disturbed.

- (vii). The road conditions are very bad. There is water logging, encroachment, no lighting. The discount factor considered on this account is very low. It should be considered at 66%.
- (viii). The arbitrary re-grouping of land zones has illegally inflated the SOR.
- (ix). In the Valuation of structures, considering the property value in Delhi as the base is not correct. Considering 50% depreciation is not correct. It should be considered at atleast 80%.
- (x). We know that the KOPT has taken up the works relating to improvement in the infrastructure facilities. Nevertheless, the proposed rentals are very high as compared to the poor infrastructure facilities made available. Further, it is not clear as to who has to maintain the sheds.

### **BCCI**

- (i). 50% - 70% increase in the lease rentals have been proposed by KOPT based on the Valuation Report. As brought out by KPSEWA, there are anomalies in the Valuation Report. There has been no increase in the value of land at Kolkata. A discounting factor of 50% is to be considered to arrive at the value for a leasehold land from freehold land. Further, considering flat discounting factor for all areas is also not correct. Zonewise discounting is to be carried out. The Value of land relied upon must be relooked.
- (ii). Though the SOR fixed in 2011 prescribed 2% escalation for KDS, the KOPT has been levying an escalation factor of 5.1%, as it has been prescribed in the Agreement. Now, the increase in rentals due to increase in value of land is also imposed upon us. The KOPT cannot have the best of all the parameters.

**Bay Container Terminal Pvt. Ltd., Seahorse, Marine Container Terminal Pvt. Ltd**

- (i). We occupy the area at Dhobitalao Container Park (DCP).
- (ii). In 2011 SOR, the rentals were increased by 500%. We were in constant touch with KOPT on the matter. It is understood that the KOPT is in the process of filing a proposal for reduction in the rentals for the DCP area.
- (iii). The DCP area is used for handling/ storing Empty Containers. When the end use of the DCP area and some other areas are the same, why should there be substantial difference in the rentals amongst the said areas.

#### **HPCL**

- (i). The rentals proposed by KOPT defies logic. How can the port seek for an increase in rentals when no basic facilities are proved to us? We have world class facilities inside our premises, but nothing outside. The oil installations involve high risk. Incase of fire, the fire tenders would not be in a position to enter our premises owing to the poor condition of the roads, jammed roads etc. This is a serious issue. Let the port give us facilities and then seek for an increase in rentals. Till such time, let the existing rates continue.

#### **BPCL**

- (i). We are going for a lease arrangement with KOPT. In the calculation of the upfront premium, a discounting factor of 7.2% has been considered. Generally, a discounting factor of 10% is considered.

#### **Aegis Logistics**

- (i). We request for a prospective effect to the proposed rentals.

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