

No. SMPK/KDS/CIV/T/2474/ 60

Dt. 18.01.2022

CORRIGENDUM-XXXV

Ref. RFQ Tender Notice No.:KOPT/KDS/CIV/T/2474/06

Dtd. 24.06.2020

Ref. RFP Tender No : KOPT/KDS/CIV/T/2474/06A

Dtd. 26.02.2021

Sub: Name of Work - Rejuvenation of Khidderpore Docks (KPD-I West) through PPP Mode on Design, Build, Finance, Operate & Transfer (DBFOT) Basis at Syamaprasad Mookerjee Port, Kolkata

Reference to subject tender, please find the following vide this **CORRIGENDUM-XXXV, Dated 18.01.2022,**

I) Schedule of Bidding Process (Cl. 1.3, RFP)

SL No.	Doc. Clause no.	Event Description	As per Corrigendum XXXIV, dtd 06-01-2022	To be read as
1	RFP Cl. 1.3: Schedule of Bidding Process	Bid Due Date	20.01.2022 upto 15-00 Hrs, IST	27.01.2022 upto 15-00 Hrs, IST
2	RFP Cl. 1.3 : Schedule of Bidding Process	Opening of Bids	20.01.2022 after 15-30 Hrs, IST	27.01.2022 after 15-30 Hrs, IST

-II) Authority's Reply to Query of Bidders

-III) Annexure-1 - Tariff Guidelines, 2021 for the future PPP Concessionaires (vide Letter ref. "F-No. PD - 13/66/2020-PPP (Part-2)/e-347563 dtd 21-12-2021)

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

Superintending Engineer (Contract)

**For Chief Engineer,
Syamaprasad Mookerjee Port, Kolkata**

**Authority's Reply to Query of Bidders
 (issued vide Corrigendum-XXXV dt. 18.01.2022)**

S.No	Queries	Clarifications
1.	<p>Clause 2.2.3 of RFQ: O&M Experience</p> <p>In line with the above clause of the RFQ we require to enter into an agreement for entrusting O&M obligations for 5 years to an entity having the required experience. Kindly confirm if we can fulfil our obligations by entrusting the maintenance contract to a manufacturer of equipment utilised in Category 1 projects specified in Clause 3.2.1 of the RFQ which have an aggregate capital cost equal to the estimated project cost.</p>	<p>As per Amended DCA-R1 published vide Corrigendum no. XXXIII Dated 30.12.2021 <i>“O&M” contract means the contract, if any entered into by the Concessionnaire for the operation and maintenance of the Project in accordance with the provisions of this agreement”</i></p> <p>Where the Applicant has given an O&M undertaking as specified in Clause 2.2.3 of the RFQ, the Applicant shall for a period of 5 years from the COD of the project enter into an O&M agreement for entrusting the O&M obligation to an entity who has an experience of 5 years or more in O&M of Category 1 Projects specified in Clause 3.2.1 of the RFQ, which have an aggregate capital cost equal to the estimated project cost.</p> <p>RFQ and Amended DCA-R1 conditions prevail.</p>
2.	<p>All cargo excepting coal, coke, gas, liquid material will be allowed to be handled and no special prior approval to be taken from the Concessioneing Authority</p>	<p>Please refer to the Response to Queries vide Corrigendum-XXVI dated 05-08-2021.</p> <p>The Concessionnaire would be allowed to handle the following cargos.</p> <ul style="list-style-type: none"> • Containers • Finished Fertilizers • Food grains • Iron and Steel Products and Aluminium Ingots • Pig Iron • Sugar • Limestone <p>For any other Clean Cargo which is not included in above-mentioned list of permissible cargo, prior approval of Port Authority to be taken by the Concessionnaire.</p> <p>RFQ and Amended DCA-R1 conditions prevail.</p>
3.	<p>Tariff Guidelines, 2021</p>	<p>Please refer to Annexure-1 for the Tariff Guidelines 2021 for PPP Concessionnaires</p>

F. No. PD-13/66/2020-PPP (Part-2)/e-347563

भारतसरकार/GOVERNMENT OF INDIA

पत्तन, पोतपरिवहनऔरजलमार्गमंत्रालय

MINISTRY OF PORTS, SHIPPING AND WATERWAYS

(पब्लिक प्राइवेट पार्टनरशिप विंग/PPP WING)

परिवहनभवन/Parivahan Bhawan,

1, संसदमार्ग/1, Sansad Marg,

नई दिल्ली/New Delhi - 110001

दिनांक/Dated: 21st December, 2021

To,

The Chairperson, All Major Ports and CMD KPL
MD, IPA

**Subject: TARIFF GUIDELINES, 2021 FOR THE FUTURE PPP
CONCESSIONAIRES - Regarding**

Sir,

The Parliament of India has enacted the Major Port Authorities Bill, 2020 to replace the Major Port Trusts Act, 1963. The Ministry of Law and Justice has published the Major Port Authorities Act, 2021 in the Gazette of India vide Gazette no 3 dated 18 February 2021.

As per subsection (zc) under Section 2 read with subsection (1) of Section 24 of the Major Port Authorities Act, 2021, the Board of each Major Port shall be competent to enter into and perform any concession contract with Public Private Partnership (PPP) Concessionaire for Public Private Partnership Project for discharge of functions of the Major Port Authority under the Act.

The proviso clause to Section 27(1) of the Major Port Authorities Act, 2021 provides that in case of Public Private Partnership Projects after the commencement of the Act, Concessionaire shall fix the tariff based on market conditions and on such other conditions as may be notified. Further, clause (f) of subsection (2) of Section 71 of the ibid Act, empowers the Central Government to make rules providing for the norms for fixation and implementation of scales, fees, rates and conditions under subsection (1) of Section 27.

In this backdrop, a Committee was constituted by the Ministry of Ports, Shipping and Waterways vide O.M.No.PD-13/66/2020-PPP/e-341758, dated 08 December 2020 for revision of Model Concession Agreement (MCA) and other issues of Public Private Partnership Projects under the chairmanship of Chairman, V.O. Chidambaranar Port Trust (VOCPT). The Committee has consulted all the Major Ports.

Based on the report of the Committee and in exercise of the powers conferred to the Central Government under Section 53 and clause (f) of subsection 2 of Section 71 of

the Major Port Authorities Act, 2021, this Government hereby issues the following Tariff Guidelines, 2021.

The said Tariff Guidelines, 2021 are issued to the Major Port Authorities (MPAs) for PPP projects approved by the Government but are still under bidding stage and all future concession agreements to be entered by Major Ports, for framing of Project wise Scale of Rates along with necessary conditionalities that will apply upon the services to be provided by the PPP Concessionaires based on market conditions and on such other conditions notified hereunder.

TARIFF GUIDELINES, 2021 FOR FRAMING OF SCALE OF RATES FOR THE CONCESSION AGREEMENTS ENTERED INTO BY THE MAJOR PORT AUTHORITY WITH PPP CONCESSIONAIRE AFTER MAJOR PORT AUTHORITIES ACT, 2021 HAS INTO FORCE

1. PRELIMINARY

1.1. These guidelines are issued to the Major Port Authorities (the "MPAs") and PPP Concessionaires, for framing of Scale of Rates along with conditionalities for each PPP project of the respective PPP Concessionaire(s) who have been authorised as set forth in the Concession Agreement(s) by the Board of Major Port Authority to discharge the authorised functions/ provide services at the Major Port Authority.

1.2. This Tariff Guidelines may be called as "Tariff Guidelines, 2021", for framing of Scale of Rates for PPP projects approved by the Government but are still under bidding stage and all future concession agreements, to be entered by Major Ports as per MPA Act, 2021. The Tariff Guidelines, 2021 may be duly updated or revised from time to time by the Government in exercise of the powers conferred under Section 53 and clause (f) of subsection 2 of Section 71 of the Major Port Authorities Act, 2021.

1.3. These Tariff Guidelines 2021 will be applicable prospectively to all the PPP Concession Agreements entered into by the Major Port Authority with PPP Concessionaire under the MPA Act, 2021. These Tariff Guidelines 2021 shall remain in force until further reviewed or amended or modified or revoked.

1.4. Unless the context otherwise requires, various terms used herein will have the same definition as in the MPA Act, 2021 and the Indian Ports Act, 1908, as amended from time to time.

1.5. If any difficulty arises in giving effect to this Tariff Guidelines, the Central Government may in consultation with PPP Concessionaires and Major Port Authorities pass such orders, as may be necessary for removing the difficulty.

1.6 For purposes of these Tariff Guidelines, the term 'Scale of Rates' shall mean the specific tariff rates along with conditionalities that are to be determined, informed and published by the PPP Concessionaires as per market conditions in respect of their respective PPP Projects awarded as per MPA Act, 2021 and as per provisions therein including Section 27(1).

2. DETERMINATION OF SCALE OF RATES

2.1. Each PPP Concessionaire is authorised by the Concessing Authority to discharge functions and provide services as set forth in their respective Concession Agreement(s) and also have the liberty to frame their own Scale of Rates for any and all services (including combination of services) they perform/ provide to their users/customers. The Scale of Rates set by the PPP Concessionaire must be in accordance with the provisions of their respective Concession Agreement(s) as well as

PROVIDED that the services or combination of the services for which the Scale of Rates is framed by the PPP Concessionaire shall

- (i) not be with retrospective effect
- (ii) not be in derogation with the rules made by or directives of the Central Government in this behalf;
- (iii) not be inconsistent with the provisions of the Competition Act, 2002; and
- (iv) not be inconsistent with the provisions of any other law for the time being in force.

2.2. The PPP Concessionaire shall abide by the provisions of the Royalty and other conditions as per the provisions of the concession agreements entered with the Concessing Authority.

2.3. The Scale of Rates, along-with conditionalities, for services rendered shall be formulated by the individual PPP Concessionaire, in accordance with these Tariff Guidelines, 2021 as amended from time to time.

2.4. The PPP Concessionaire shall ensure that the Scale of Rates includes tariff for all the services rendered/ to be rendered by them within the scope of services prescribed in the Concession Agreement to ensure transparency and complete disclosure of applicable charges on port users. The Scale of Rates may be categorized under the following broad categories –

- a. Vessel Related Charges (if chargeable by the PPP Concessionaire under the Concession Agreement)
- b. Cargo /Container Handling Charges
- c. Storage Charges
- d. Other or Miscellaneous Charges

2.5.1. The PPP Concessionaire shall host the Scale of Rates as published rates/ tariff and applicable conditionalities on its website for transparency. The Scale of Rates/ amendment/ revision in Scale of Rates as published by the PPP Concessionaire on the website including conditionalities shall be the ceiling level i.e. the maximum rates or charges or tariff chargeable.

2.5.2. The PPP Concessionaire may annually review its Scale of Rates and the conditionalities. The PPP Concessionaire can modify, amend, increase, decrease, delete or add new tariff/ conditions and host the revised Scale of Rates along with conditionalities on its website in accordance with the procedure set forth in these Tariff Guidelines, 2021. Without prejudice to the aforementioned, the PPP Concessionaire can, if necessary, even during the year or during the annual review, change or stipulate revisions to the Scale of Rates based upon market conditions for existing cargo/ services provided by the PPP Concessionaire, rationalise existing tariff/ storage tariff/ existing

conditionalities and can fix tariff / charge/ conditionalities based upon market conditions for new cargo / new service as permissible within the scope of the Concession Agreement(s).

2.5.3. The PPP Concessionaire shall also intimate in writing the Scale of Rates as amended from time to time to the Concessioneing Authority.

2.6. The Scale of Rates and any revised/ modified Scale of Rates and conditionalities will come into effect only after expiry of 30 days prospectively from the date of first publishing of the Scale of Rates, revision/ modification of the Scale of Rates on the website of the PPP Concessionaire.

2.7. The Concessioneing Authority for inviting bids for PPP Projects may arrive at a reference tariff based on Reference Tariff Guidelines, 2013 as amended from time to time or choose to prepare their own reference tariff. For these Tariff Guidelines 2021, the reference to Reference Tariff Guidelines 2013 will be only for indicative purposes and may be used by the Concessioneing Authority for calculation of Reserve Royalty, if deemed fit.

- 2.8 The Scale of Rates of each PPP Concessionaire shall be decided subject to :-
- i. Para 6 in respect of 'Vessel Related Charges';
 - ii. Para 5 in respect of 'Cargo Related Charges';
 - iii. Para 5A in respect of 'Container Related Charges';
 - iv. Para 5.5 in respect of 'Storage Charges; and
 - v. Para 4 in respect of 'Other aspects' and other provisions of these Tariff Guidelines 2021 as amended from time to time.

3. Payment of Royalty by PPP Concessionaires

3.1. The PPP operator shall pay royalty at the rate indicated in the Concession Agreement applicable during the concession period.

3.2. All the PPP Concessionaires shall maintain all documents and supporting evidence relating to the details of cargo/ containers handled category wise, tariff charged and the amount collected and submit to the Concessioneing Authority within 15th day of the following month duly certified by its Internal Auditor(s). The Concessioneing Authority shall have the option to verify and audit the quantity of cargo/ TEUs handled, tariff charged and amounts of rates received.

3.3. For payment of Royalty in cases where there are existing policies of the Central Government such as the existing coastal cargo/ container policy, the Concessioneing Authority must stipulate the rate of Royalty that is to be levied in the case of 'transshipment of normal containers of different sizes' as well as 'coastal cargo/container' as per provisions set forth in these Tariff Guidelines 2021 policy as amended from time to time.

3.4. Royalty Rates for Transshipment containers i.e. Foreign/ Coastal

This has to be brought out explicitly by the concerned Concessioneing Authority in the bidding document as well as in the Concession Agreement –

- i) Incase of foreign transshipment containers, Royalty is to be levied at
 - a. one time of the normal containers for a 20' transshipment container,
 - b. incase of transshipment containers between 20' to 40', royalty is to be levied at 1.2 times the normal foreign container rate and
 - c. incase of transshipment containers beyond 40', royalty is to be levied at 1.5 times the normal foreign container rate.

- ii) In case of coastal transshipment containers of 20', container between 20' to 40' and above 40', the royalty payment by Concessionaire shall be 40% of the royalty payable for Foreign Transshipment container of the corresponding size.

Illustration: Suppose the handling tariff of a normal 20' foreign container is `5,000/, tariff for coastal container is `3,000/- as per the coastal concession Policy and as per clause 5.4.1 of these Tariff Guidelines, tariff for Transshipment container is 1.5 times the rate of normal foreign/ coastal container. Now, suppose royalty per TEU is Rs.1,000. Then, the Royalty payable by Concessionaire for Transshipment container (foreign/ coastal) as per this clause 3.4.(i) and (ii) above shall be as tabulated below:

Description	Tariff – Handling Charge (in Rs.)		Royalty payable on Transshipment container if per TEU Royalty is at Rs.1000/- shall be -		
	Normal Container	Transshipment container	20' Transshipment Container	20' to 40' Transshipment Container	Above 40' Transshipment Container
Foreign 20'	5000	7500	1000	1200	1500
Coastal 20'	3000	4500	400	480	600

3.5. Royalty rates for coastal cargo/ container entitled for coastal concession in tariff:

As regards coastal containers or coastal cargo eligible for coastal concession in tariff as per the prevailing Government policy, the tariff of the coastal cargo/ container is charged at 60% of the tariff applicable to normal foreign cargo/ container. Accordingly Royalty payable by the PPP Concessionaire to the Concessioning Authority on coastal cargo or containers levied concessional tariff as per policy guideliness of the Government shall be at 40% of the Royalty payable towards normal foreign cargo/ container.

4. OTHER ASPECTS

4.1. Status of Vessel: The status of the vessel for tariff determination purposes will be borne out by its certification by the Customs or the Director General of Shipping. This shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying Vessel Related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

4.2.1. System of classification of 'vessel' for levy of Vessel Related Charges (VRC)

(a) A foreign going vessel of Indian flag having a General Trading Licence can convert to 'coastal run' on the basis of a Customs Conversion Order. Such vessel that converts into 'coastal run' based on the Customs Conversion Order at her first port of call in Indian Port will not require any further custom conversion, so long as it moves on the Indian Coast.

(b) A Foreign going vessel of foreign flag can convert to 'coastal run' on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping and a Custom Conversion Order.

4.2.2. Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate:

(a) In cases of such conversion as set forth in Para 4.2.1. above, coastal rates shall be chargeable by the load port from the time the 'converted vessel' starts loading coastal goods.

(b) In cases of such conversion as set forth in Para 4.2.1. above, coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port. Immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

4.2.3. Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

(a) Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(i) Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(ii) Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

** The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.*

(b) In case of a Foreign flag vessel converted to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

4.3 Port Users (i.e. users or customers of the PPP Concessionaire) will not be required to pay charges for delays attributable to the PPP Concessionaire. For example power failure, malfunction/ non function of crane or equipment provided by the PPP Concessionaire.

4.4 **Interest Rate:** Port users (i.e. users or customers of the PPP Concessionaire) can be subjected to interest on delayed payments and likewise the PPP Concessionaire shall also pay interest on delayed refunds at the same rate. For this purpose the rate of interest should be identical for amount receivable by the PPP Concessionaire and payable by the PPP Concessionaire to be calculated on simple interest basis and not exceeding 15% p.a.

4.5 The period for calculation of delay in payments by Port users (i.e. users or customers of the PPP Concessionaire) will be counted beyond 10 days after the date of raising the bills by the concerned PPP Concessionaire.

4.6 The delay in refunds by the PPP Concessionaire will be counted beyond 20 days from the date of completion of services or on production of all documents required from the Port users (i.e. users or customers of the PPP Concessionaire), whichever is later.

4.7.1. All US dollar denominated tariff set forth in the Scale of Rates will be recovered in Indian Rupees after conversion of charges in US dollar terms into its equivalent Indian Rupees at the current reference rate (as on the date of conversion) as notified by the Reserve Bank of India or the market buying rate notified by State Bank of India.

4.7.2. Alternatively, PPP Concessionaire may recover US dollar denominated tariff in US dollars after seeking approval of the Government and in compliance with the provisions of Foreign Exchange Management Act, 1999 and the necessary guidelines of the Reserve Bank of India.

4.8. The day of entry of the vessel into port limits shall be reckoned as the day for such conversion purposes in respect of Vessel Related Charges. In respect of charges on containers or cargo, the day of entry of the vessel in the case of import containers and the day of arrival of containers into the port in the case of export containers shall be reckoned as the day for such conversion.

4.9. A regular review of exchange rate shall be made once in 30 (thirty) days from the date of arrival in the cases of vessels staying in the port for a period longer than 30 (thirty) days. The basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of review.

4.10. The rates prescribed in the Scale of Rates hosted on the website of the PPP Concessionaire shall remain the published rates for the particular PPP Concessionaire. No tariff or rates can be charged in excess of the said Scale of Rates. It is however clarified that the PPP Concessionaire would be at liberty to offer rebates and discounts on the published Scale of Rates to its users/customers.

5. CARGO RELATED CHARGES.

5.1. Cargo-related charges shall continue to be denominated in Indian Rupee terms.

5.2. 'Wharfage rates' if chosen to be levied as part of Cargo Related Charges by the PPP Concessionaire shall be on per unit of either weight or volume of cargo handled.

5.3. Before classifying any cargo under "unspecified" category under the wharfage Scale, the relevant customs classification should be referred by the PPP Concessionaire to find out whether the cargo could be classified under any of the specific categories mentioned in the wharfage Scale.

5.4 Concessional tariff will be prescribed for coastal cargoes/ containers, as per the policy guidelines of the Government as amended from time to time.

5.4.1. Presently, as per the Coastal Concession Policy of the Government, the cargo/ container related charges for all coastal cargo/ containers, other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo/ container related charges. In case of cargo related charges, the concession should be allowed on all the relevant cargo handling charges for ship-shore transfer and transfer from/to quay to/from storage yard including wharfage.

5.4.2. For the purpose of this concession cargo/ container from a foreign port which reaches an Indian Port 'A' for subsequent transshipment to Indian Port 'B' will also qualify insofar as the charges relevant for its coastal voyage. In other words, cargo/containers from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.

5.4.3. To exemplify, *in case a container from foreign port reaches Indian Port 'A' for subsequent transshipment to Indian Port 'B', 50% of foreign going rate and 50% of coastal rate shall be applicable for vessels permitted to undertake coastal voyage.*

5.5. For Demurrage/ storage charges free days allowed shall be exclusive of customs notified holidays and port/ terminal non-working days. The number of free days may, be fixed by individual PPP Concessionaire in its SOR. Once demurrage/ storage charge starts accruing, no allowance will be made for the customs notified holidays and port/ terminal non-working days.

5A. CONTAINER RELATED CHARGES

5A.1. The handling charges as part of Container Related Charges for transshipment containers shall be concessional. Such charges shall not exceed 1.5 times the handling charges for the normal handling operation in loading or unloading cycle. In case of transshipment of coastal containers, the concession in handling charges shall be calculated with reference to the applicable handling charges (which are subject to the concessions specified in para 5.4.1. above) for coastal containers for the normal handling operation in loading or unloading cycle.

Illustration

Let X be the handling charges for normal import or export containers and Y be rate for similar operations in respect of coastal containers (where Y is arrived at based on X after giving the concessions specified in clause 5.4.1 above).

Handling charges as part of Container Related Charges for transshipment containers will not exceed 1.5X in case of Exim containers and 1.5Y in case of coastal containers.

5A.2.1. Free dwell-time (storage) allowed shall be exclusive of Customs notified holidays and Port/ terminal non-working days. The number of free days may, be fixed by individual operators in its SOR. Once storage charge starts accruing, no allowance will be made for custom notified holidays and terminal non-working days.

5A.2.2. Free dwell-time (storage) period for import containers shall commence from the day after the day of landing of the container and for export containers the free period shall commence from the time the container enters the terminal.

5A.2.3. The storage charges on abandoned FCL containers/ shipper owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the day of landing of the container, whichever is earlier subject to the following conditions:

- (i) The consignee can issue a letter of abandonment at any time.
- (ii) If the consignee chooses not to issue such letter of abandonment, the container Agent/ MLO can also issue abandonment letter subject to the condition that,
 - (a) the Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and
 - (b) the line shall pay all port charges accrued on the cargo and container before resuming custody of the container.
- (iii) The container Agent/ MLO shall observe the necessary formalities and bear the cost of transportation and destuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.
- (iv) Where the container is seized/ confiscated by the Custom Authorities and the same cannot be de-stuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/ confiscated containers should be removed by the line/ consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

6. VESSEL RELATED CHARGES.

6.1.1. Vessel-related charges for foreign-going vessels will be denominated in US dollars and recovered in Indian rupees by the PPP Concessionaire.

6.1.2. Alternatively, PPP Concessionaire may recover US dollar denominated tariff in US dollars after seeking approval of the Government and in compliance with the provisions of Foreign Exchange Management Act, 1999.

6.2. As per the prevailing Coastal Concession Policy of the Government, in case of coastal vessels, the vessel related charges should not exceed 60% of the corresponding charges for other vessels. Further, these charges should be denominated and collected in Indian Rupees only. Restatement of coastal rates with reference to prevailing exchange rate at the time of each general revision of Scale of Rates is not permitted as per the existing Coastal Concession Policy of the Government. This provision shall be governed by the Coastal Concession Policy of the Government as amended from time to time.

6.3. Status of a vessel as borne out by its certification is the relevant factor to decide whether vessel is 'foreign-going' or 'coastal'.

6.4. The unit for levying Vessel Related Charges will be Gross Registered Tonnage (GRT) of the concerned vessel. Unit for levy of berth hire charges as well mooring fee and similar charges that are linked to the duration of stay of a vessel shall be hourly.

7. Dispute Resolution/ Grievance Redressal

7.1. In the event any dispute or difference between the PPP Concessionaire and the Concessions Authority regarding fixation/ revision of SOR or tariff or conditionalities determined following this Tariff Guidelines, the concerned PPP Concessionaire or the Concessions Authority shall make a reference to the Adjudicatory Board, constituted under section 54 of the MPA Act, 2021 in accordance with the prescribed rules.

7.2. In the event any user has any grievance regarding procedure followed for fixation/ revision of Scale of Rates or conditionalities determined under these Tariff Guidelines, 2021, the concerned user or party shall file its complaint/representation/ grievance to the Adjudicatory Board, constituted under section 54 of the MPA Act, 2021 in accordance with the prescribed rules.

8. MANDATORY PROVISIONS IN CASE OF FORCE MAJEURE AND SPECIFIC EVENTS

8.1. The PPP Concessionaires will abide by provisions of the Concession Agreement in respect of the Scale of Rates in cases of any unforeseen events including Force Majeure events. In addition to the above, the PPP Concessionaires covered by these Tariff Guidelines 2021 are also mandated to comply with any orders, guidelines or notifications issued by the Concessions Authority and the Central Government in respect of the Scale of Rates with respect to Force Majeure events and/or other specific events that concern or relate to matters of security of the nation or in public interest or such matters that the Concessions Authority and/or the Central Government may think fit in accordance with the powers vested under the MPA Act 2021.

9. MANDATORY DISCLOSURES BY PPP CONCESSIONAIRES

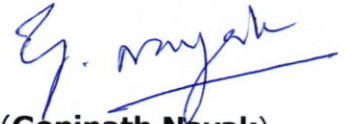
9.1. All PPP Concessionaires shall furnish to respective Concessions Authority quarterly and annual reports on cargo traffic handled and ship berth-day output. For the container terminals, the PPP Concessionaire shall furnish to Concessions Authority quarterly/ annual reports on container traffic handled, average moves by crane per hour and average dwell time for containers.

9.2. The quarterly reports shall be submitted by the PPP Concessionaire within a month following the end of each quarter. The Annual Reports and Audited Accounts shall be submitted by the PPP Concessionaire within 120 days following the end of each of the financial year. Any other information which may be required by Concessioneing Authority shall also be furnished to them from time to time.

9.3. The Major Ports Authorities/ Concessioneing Authorities are, therefore, directed to adopt the aforesaid procedure prescribed in these Tariff Guidelines, 2021. The Major Port Authorities are also directed to incorporate the said Tariff Guidelines as attachment in the bidding document and Concession Agreement for PPP Projects.

This issues with the approval of the Competent Authority.

Yours faithfully,



(Gopinath Nayak)

Under Secretary to the Government of India

[E-mail: nayak.gn@gov.in]

011-2331 1659

Copy to:

- i. PS to Hon'ble Minister of Ports, Shipping & Waterways
- ii. PS to Hon'ble Minister of State of Ports, Shipping & Waterways (Shri Shripad Naik)
- iii. PS to Hon'ble Minister of State of Ports, Shipping & Waterways (Shri Shantanu Thakur)
- iv. PPS to Secretary (PS&W)
- v. PPS to AS, Ministry of Ports, Shipping and Waterways
- vi. PPS to AS&FA, Ministry of Ports, Shipping and Waterways.
- vii. PS to Joint Secretary (PPP)/ Joint Secretary (Ports)/Economic Advisor, Ministry of Ports, Shipping and Waterways.
- viii. Director (PPP), Ministry of Ports, Shipping and Waterways.