

**APPLICATION SEEKING DOCUMENT FOR  
SETTING UP OF TRANSLOADING FACILITIES  
FOR  
HANDLING DRY BULK CARGO  
AT  
HALDIA DOCK COMPLEX,  
KOLKATA PORT TRUST**



**Ad/0071/TRANSLOADING/ 2013-14**

**SUBJECT:       SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

Page 1 of 41

---

## **1.       Need of the Project**

Haldia Dock Complex (HDC), Kolkata Port Trust (KoPT) has a vast economic hinterland comprising major Steel Plants of SAIL and TATA Steel, Power Plants of NTPC, CESC, WBPDC, high grade Iron Ore & Coal mines, local Sugar, Coke & Fertilizer manufacturing industries etc. and has tremendous potential to handle substantial volume of dry bulk cargo consisting of Coking Coal, Non coking Coal, Coke, Lime Stone, Fertilizer Raw Materials, Raw Sugar, Iron Ore etc.

In view of the capacity augmentation plans of the existing industries as well as setting up of new industries including steel plants, power plants etc. in the hinterland of HDC, it has been projected that HDC has potential to handle close to 90 million tons of cargo by 2019-20 subject to availability of adequate draft, capacity etc.

Keeping with the above cargo potential, KoPT has initiated action for upgrading its cargo handling capacity at the existing location of Haldia Dock Complex by way of constructing riverine Jetties both for handling Ships and Barges. This apart the Concessioning Authority has also initiated action for setting up of a new Greenfield Dock System (Haldia Dock II) at deep drafted locations upstream of Haldia for handling vessels at a draft of about 9mtrs. On implementation of all the projects, the Concessioning Authority will be able to add additional capacity of more than 20 million tons of cargo.

In order to ensure materialization of the projected cargo at HDC, while obviating the draft constraints for handling fully laden Mother Vessels, KoPT has decided to create transloading facilities at deep drafted location where round the year transloading operations are possible. The transloading operations envisaged by KoPT would comprise deployment of suitable Transshipper together with adequate daughter vessels. The fully laden mother vessels carrying import cargo would directly call at the Transshipper and unload cargo into the Transshipper. The cargo from the Transshipper will be brought to Haldia by daughter vessels. The dry bulk cargo being imported at HDC viz. coking coal, non-coking coal, Lime Stone, Raw Sugar etc. can be handled in this mode. The reverse operation will be done in case of export cargo like iron ore, thermal coal (coastal shipment) etc.

The transloading arrangement so envisaged by KoPT should would benefit the trade in increasing their cargo throughput at HDC at a reduced overall logistic cost because of the following advantages:

- a)       To import/ export cargo by fully laden Panamax/ Capesize vessels and unload / load them from /to a single point viz the Transloader.
- b)       Low turn round time of the mother vessels by way of obviating existing system of two port handling mode.
- c)       Low railway freight as well as better availability of rakes at Haldia for the Industries.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 2 of 41

---

**2. Scope of Work and other relevant information –**

**2.1) Creation of Transloading Facilities comprising the following:-**

- a) Transshipper(s)
- b) Daughter vessels
- c) Tugs, fenders and other required infrastructure.

**2.2) The Transloading Operations to be carried out with the facilities to be created as per clause 2.1 above:-**

**i) For Import Cargo:**

Transfer of dry bulk cargo from the mother vessels calling at the Transloading point into –

- a) The daughter vessels and/or the hold of the Transshipper as also transfer of cargo from the hold of the Transshipper to the daughter vessels.
- b) Transportation of cargo by daughter vessels between Transloading point and HDC.

**ii) For Export Cargo:**

Reverse operations (as applicable for import cargo) will have to be undertaken for export cargo.

**NOTE-**

1. In some cases, the mother vessels (Panamax / Handimax type) may also come to Haldia after partial unloading of cargo through Transloading operations. In case of export cargo, the mother vessels after partial loading of cargo at HDC may visit the Transloading point for topping up.
2. The exporters / importers, at their discretion, may also deploy their own daughter vessels for transportation of cargo between the Transloading point and HDC. In such cases, the service provider will undertake only the operation as at item-2.2(i)(a) above including reverse operation in case of export cargo.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**2.3) To carry out cargo transfer as follows:-**

- a) 20,000 tons of cargo per day between the mother vessel and the daughter vessel, in case of direct transfer both for import and export cargo during transloading operations.
- b) In case of indirect transfer, @ 20,000 tons of cargo per day between the Mother Vessel and the Transshipper and @ 15,000 tons of cargo per day between the Transshipper and the Daughter Vessels during transloading operations.

**Note -** The shipday output will be calculated per vessel basis as follows:-

**i) In case of direct transfer of cargo between mother and daughter vessel**

—  
Total cargo transferred directly between the mother vessel  
and the daughter vessel  
----- x 24  
Time interval between commencement and  
completion of such operations of the daughter vessel

**ii) In case of transfer of cargo between the mother vessel and the hold of the Transshipper-**

Total cargo transferred between the mother vessel  
and the hold of Transshipper-  
----- x 24  
Time interval between commencement and  
completion of such operations of the mother vessel

**iii) In case of transfer of cargo between the Transshipper and the daughter vessel-**

Total cargo transferred between the Transshipper  
and the daughter vessel  
----- x 24  
Time interval between commencement and  
completion of such operations of the daughter vessel

**2.4) Type of Daughter vessels to be deployed:-**

The daughter vessels shall be of minimum 20000 DWT so that the transloaded cargo is brought to HDC in minimum number of vessel trips to address the limitation of lock till such time riverine jetties are put in place at HDC to handle dry bulk cargo.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 4 of 41

---

**2.5) Details of Facilities to be deployed:-**

The successful applicant (service provider) shall deploy at least one Transshipper capable of transferring cargo between all types of dry bulk mother vessels including Capesize vessel and the Transshipper / daughter vessel at the output level mentioned at para-2.3 above.

Apart from Transshipper(s), the service provider will decide number of daughter vessels, Tugs, fenders and other required infrastructure to be deployed by it to fulfill the Scope of Work of the project. The applicants will indicate the same as per formats given at Annex III, Annex IV & Annex V.

**2.6) Location of Transloading-**

The facilities for round the year transloading operations are to be set up within the existing limits of Kolkata Port Trust notified by the Central Govt. and if required, also within a radius of two nautical miles around the point designated by Lat 21° 08'12" N Long 087° 14' 00" E notified under the limits of Paradip Port Trust.

The service provider(s) will identify the location(s) within the above mentioned limits where he intends to undertake transloading operations. The transloading operations may be undertaken at different locations at different point of time. The locations so identified shall have to be intimated to KoPT by the service provider (s).

**3. Eligibility**

**3.1 Eligible applicant –**

Any entity (either individually or in a consortium) that has experience of undertaking midstream cargo transfer operations between vessels with the help of Transshipper may only apply.

Besides, the entity (either individually or in a consortium) must have net worth of Rs 50 crores at the end of the most recently completed financial year.

The applicant shall give details of his past experience as per format at Annex II and Net Worth information as per Annex-VI.

**SUBJECT:       SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

Page 5 of 41

---

### **3.2    ASSESSMENT OF ELIGIBILITY:**

- 3.2.1 In case of a Consortium, the past experience of those members who have and shall have an equity share of at least 26% (twenty six per cent) each in the Special Purpose Vehicle (or SPV) shall be considered as eligible experience, provided that each such member shall, for a period of 2 (two) years from the date of commercial operation of the transloading facilities, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.
- 3.2.2 Where the applicant is a consortium, the aggregate Net Worth for the consortium would be computed as arithmetic sum of the respective net worth of those members who have and shall have an equity share of at least 26% (twenty six per cent) each in the Special Purpose Vehicle (or SPV) shall be considered as eligible experience, provided that each such member shall, for a period of 2 (two) years from the date of commercial operation of the transloading facilities, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.
- 3.2.3 The entity claiming the past experience/ financial eligibility should have held, in the company owning the eligibility, a minimum of 26% equity during the entire period for which the eligible experience is being claimed.
- 3.2.4 Past experience of the eligible activity shall not be claimed by more than one member of a consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.
- 3.2.5 The applicant shall submit a Power of Attorney as per format given at Annex-VII, authorizing the signatory of the applicant to submit the application.
- 3.2.6 Where the 'Successful Applicant' is a 'Consortium', it shall be required to form an appropriate 'Special Purpose Vehicle' or SPV, incorporated under the Indian Companies Act 1956, to set up the Transloading Facilities. It shall, in addition to forming the SPV, comply with the following additional requirements:
- (a) Members of the Consortium shall nominate one member as the 'Lead Member' who shall have an equity share holding of at least 26% of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Annex-VIII, signed by all the other members of the Consortium;
  - (b) The application shall contain the information required for each member of the Consortium as per Annex-I

**SUBJECT:       SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

Page 6 of 41

---

- (c) The applicant shall include a brief description of the roles and responsibilities of individual members of the consortium, particularly with reference to technical and financial obligations, as per Annex- I.
  - (d) An individual (single entity) Applicant participating in the instant project shall not be a member of any other Consortium participating in the instant project; further, a member of a particular Consortium shall neither submit any application individually nor shall be a member of any other Consortium participating in the instant project;
  - (e) Members of the Consortium shall enter into a binding Joint Bidding Agreement (JBA) (substantiated in the form specified at Annex-IX), for the purpose of submitting application.
  - (f) Except as provided in this Document, including its Addenda, if any, there shall not be any amendment to the said JBA without the prior written consent of KoPT.
- 3.2.7 The Single Entity participating in this project or all the members of the Consortium participating in this project must not have been debarred by the Central / State Government or any Entity controlled by them or any other legal authority for participating in any project / tender / contract / agreement of whatever kind. An undertaking in this regard shall be given by the applicant in the Covering Letter as per Annex-X.
- 3.2.8 An applicant including any Consortium Member or Associate shall, in the last 3 (three) years ending on the day preceding to the day of issue of the application, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the applicant, Consortium Member, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such applicant, Consortium Member as per Annex-X.

### **3.3 CHANGE IN COMPOSITION OF THE CONSORTIUM:**

- 3.3.1 Change in the composition of a Consortium shall not be permitted by KoPT either during the 'Techno-commercial Evaluation Stage' [i.e., from the 'date of issuance of Application Seeking Document.' up to the 'date of notification of the techno-commercially valid Applications'] or during the 'Price-Evaluation Stage' [i.e., from the 'date of notification of the techno-commercially valid Applications' up to the 'date of placement of Letter of Permission]. The same may be permitted only after placement of Letter of Permission where:
- (a) The reason for such change with proof, if applicable, shall be submitted along with the application. Request for change without any valid reason will not be entertained by KoPT.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 7 of 41

---

- (b) The Lead Member continues to be the Lead Member of the Consortium;
- (c) (i) In case of substitution, the substitute is at least equal, in terms of past experience & Financial Capability, to the Consortium Member who is sought to be substituted. In this regard, documents shall have to be furnished to establish that the proposed member is in possession of experience and having financial health at least equal to that of the substituted member during the period as stipulated in the pre-qualification criteria of the Application seeking document.  
  
(ii) In case of removal of any member without substitution, the remaining member(s) shall fulfill the pre-qualification criteria of the Application seeking document.  
  
(iii) In case of induction of any additional member(s), documents shall have to be furnished to establish experience and financial health of the proposed additional member.
- (d) The new Member(s) expressly adopt(s) the Application seeking document already made on behalf of the Consortium as if it/they were a party to it originally, and is/are neither an Applicant/Member/Associate of any other Consortium participating in this tender nor a single entity having participated in this Application process.

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

3.3.3 KoPT reserves the right to reject any Application if:

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

Note: If the Applicant is a Consortium, then the entire Consortium may be disqualified / rejected. If such disqualification / rejection occurs after the Applications have been opened and the Applicant quoting the Lowest gets disqualified / rejected, then the Authority reserves the right to take any such measure as may be deemed fit in the sole discretion of KoPT, including annulment of the Application Process.

3.3.4 If any Applicant, after downloading the Application seeking document, makes any modification / alteration in the Application seeking document, the application submitted by the said Applicant will be rejected outright.

**SUBJECT:      SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

Page 8 of 41

---

#### **4.      Application of Evaluation Criteria**

##### **4.1     Tests of Responsiveness:**

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

- (i)      is received by the due date and time including extension thereof, if any,
- (ii)     is signed, sealed and marked as stipulated in this Document,
- (iii)    is accompanied by the required covering letter,
- (iv)     is accompanied by the required Power of Attorney(s),
- (v)      contains all the pages of this Document including the Addendum, if any, duly signed as stipulated in this Document,
- (vi)     contains all the documents, information, certificates etc as requested in this Document,
- (vii)    contains information/details in Formats as specified in this Document,
- (viii)   is accompanied by certificates of Chartered Accountant / Certified Public Accountant and other authorities regarding past experience and financial capability as applicable.
- (ix)     is accompanied by Joint Bidding Agreement as per format given at Annex-IX (in case of Consortium).
- (x)      is accompanied by detailed work plan for fulfilling the scope of work using proposed / committed infrastructure.
- (xi)     does not show inconsistencies between the details submitted in this application and the supporting documents,
- (xii)    has not proposed any deviation in the application as compared to the terms & conditions, scope of work etc. as detailed in this Document together with subsequent amendment(s)/ modifications(s) thereof made through issuance of Addenda.
- (xiii)   does not have any other inconsistency(ies) in the application submitted by the applicant.

##### **4.2     Clarifications:**

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

**SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

Page 9 of 41

---

#### **4.3 Confidentiality:**

Information required by KoPT from the applicant(s) for the purpose of examination, evaluation etc. of application will be kept confidential by KoPT and any such information will not be divulged, unless it is ordered to do so by any authority that has power under the law to require its release.

#### **4.4 Evaluation of TECHNO -COMMERCIAL PART:**

The techno commercial part of the application found responsive as per clause- 4.1 above will then be evaluated as per eligibility criteria as detailed in this document.

#### **Note:**

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

#### **5. Evaluation of Price Offer –**

(i) The service provider will be allowed to undertake transfer of cargo at the transloading point by the Transshipper between the mother vessels and the daughter vessels (directly or with intermediate storage in the Transshipper) within TAMP approved ceiling rates.

(ii) The techno commercially eligible applicant quoting the lowest tariff for transportation of cargo by daughter vessels between the transloading point and HDC (as per Annex-XI) will be given the permission for setting up facilities and undertaking Transloading operations under the terms and conditions to be stipulated by KoPT.

(iii) If so considered by KoPT, the second lowest bidder may also be given similar permission provided he agrees to work at the rates proposed by the lowest bidder regarding transportation of cargo by daughter vessels between the transloading points and HDC berths.

#### **Note –**

The Transshipment charges to be framed shall be a single charge for transfer of cargo between mother and daughter (both for import and export cargo) irrespective of whether the said transfer had taken place with or without intermediate storage.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 10 of 41

---

KoPT is in the process of filing its application before TAMP for approving ceiling rate of Rs 127.41 per ton (for foreign cargo) and Rs.76.47 per ton (for the coastal cargo) as ceiling rates w. r. t Transshipment charges.

Till such time TAMP approved rates are obtained, the service providers will be allowed to realize cargo handling charges by Transshipper within the above mentioned ceiling rates on ad-hoc basis.

After approval of TAMP, the ceiling rates so approved by TAMP will be applicable.

In case TAMP approves rate for undertaking transshipment operations lower than the proposed rate, then the successful applicant will be allowed to increase the quoted rate for cargo transportation by daughter vessel by the amount equivalent to the reduction in the transshipment charges.

In case TAMP approves rate for undertaking transshipment operations higher than the proposed rate, then the successful applicant will be required to reduce the quoted rate for cargo transportation by daughter vessel by the amount equivalent to the increase in the transshipment charges.

## **6. Instructions to the Applicants**

### **6.1) Procedure for preparation and submission of application**

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

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

**6.1.2)** Language: The application and all related correspondences and documents shall be written in English Language.

**6.1.3)** The application completed in all respects along with all required Annexes properly filled in and signed with seal shall be submitted in triplicate in three parts separately in **THREE SEALED COVERS** as follows:

- (I) **FIRST SEALED COVER** duly superscripted as 'Earnest Money' as well as Name of Applicant and Application Subject should contain Original Demand Draft/Banker's Cheque/Pay Order in connection with Earnest Money Deposit (EMD)



SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 12 of 41

---

'Tariff Part' shall contain only tariff and no conditions whatsoever. Any condition imposed in 'Tariff Part' shall make the application liable for outright rejection.

**(IV) OUTER SEALED COVER:**

All the above 3 (three) sealed covers together with a Covering Letter as per format given at Annex-X shall be again enclosed in an outer cover and sealed, which should be superscripted with Name of Applicant and Application Subject. In other words, the outermost cover shall contain three separate sealed covers i.e., (i) Earnest Money (ii) Techno-Commercial Part and (iii) Tariff Part.

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

**7. Validity of Application:-**

90 days from the date of opening of the 1<sup>st</sup> and the 2<sup>nd</sup> sealed cover of the applications

**8. Earnest Money:**

- (a) The Applicant shall submit Earnest Money for an amount of INR 50,00,000/- (INR Fifty lacs only) through Demand Draft / Pay Order / Banker's Cheque drawn in favour of "Haldia Dock Complex, Kolkata Port Trust" payable at Haldia in the First Sealed Cover.
- (b) Applications submitted without Earnest Money shall be rejected outright without any reference to the Applicants whatsoever.
- (c) The amount of Earnest Money will be refunded (subject to provisions of forfeiture of Earnest Money deposit to the unsuccessful Applicants without interest after the selection of Successful applicant. In case of Successful Applicant, this amount may be adjusted against the Performance Guarantee or refunded without interest after submission and acceptance of the Performance Guarantee.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 13 of 41

---

**9. Forfeiture of Earnest Money:**

The Earnest Money shall be forfeited if the Applicant withdraws or substitutes his application before expiration of the validity of application (90 days from date of opening of of the 1<sup>st</sup> and the 2<sup>nd</sup> sealed cover of the applications). The Earnest Money will also be forfeited as per the other provisions, specifically mentioned below.

**10. Pre-Bid Conference:**

- (a) A pre-bid conference will be held at 1100 hours of January 03, 2014 at Jawahar Tower Conference Room; Haldia Dock Complex (HDC); Haldia Township; Purba Medinipur; PIN – 721607.
- (b) The intending Applicants are advised to formulate their queries relating to all aspects mentioned in this document as well as seek other clarifications/details required by them from KoPT and forward the same in writing by December 27, 2013 to the Manager(Administration); HDC [ [akdutta@kopt.in](mailto:akdutta@kopt.in) ] so that the same may be discussed / clarified in the pre-bid conference.
- (c) During the pre-bid conference, the queries received in advance would be clarified first, followed by those raised during the conference.
- (d) KoPT will furnish its response to all such queries including the description of the queries (without identifying the sources raising such queries) in the official website of KoPT including modifications / amendments, if any, to the terms and conditions indicated in this document, scope of the project etc. which the intending applicants are to note for submitting their application. The amendments / modifications / clarifications shall be hosted in the form of an "Addendum" which shall become an integral part of the application seeking document for all purposes and shall be binding on the applicants. The content of the Addendum shall be accepted and submitted by all applicants along with their application.
- (e) Attending the pre bid conference will be helpful for the intending applicants but is not mandatory.
- (f) The intending applicants are advised to inform HDC, KoPT in advance about their intention to attend the pre-bid meeting in writing. A maximum of two representatives of each intending applicants will be allowed to participate.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 14 of 41

---

#### 11. Due Date and Time for Submission and Opening of Application

- (i) The application should be submitted only by hand at the office of the Manager (Administration) Manager(Administration); HDC at Jawahar Tower; Haldia Township; Haldia; Purba Medinipur; Pin – 721 607, not later than 1400 hours of January 10, 2014 , after which time and date, no application shall be accepted.
- (ii) KoPT may, at its sole discretion, extend the Submission / Opening due date(s) by issuing a 'Notice / Extension Notice' in KoPT's website with due notification in the press.
- (iii) The sealed cover of 'Earnest Money' (First Sealed Cover) and 'Techno-Commercial Part' (Second Sealed Cover) of the Application shall be opened at 1430 hours of January 10, 2014 at the office of the Manager(Administration); HDC at Jawahar Tower; Haldia Township; Haldia; Purba Medinipur; Pin – 721 607. The Applicant or his authorized representative may witness the opening of the techno-commercial part of the application, if they so desire.

**Note:** If the above mentioned due date and time for submission and opening of application becomes a holiday, then the "Earnest Money" and " Techno Commercial " parts of the Application will be opened on the next working day.

- (iv) The 'Tariff Part' (Third Sealed Cover) of only techno-commercially qualified applicants, will be opened on a subsequent date, for which date & time will be intimated separately to the applicants concerned only.

#### 12. Substitution or Withdrawal of Applications:

The Applicants may substitute or withdraw its tender after submission, provided that written notice of the substitution or withdrawal is received by KoPT before the due date and time of submission of the application or any extension thereof. No application shall be substituted or withdrawn by the applicants after the due date and time of submission of application or any extension thereof. If the applicant substitutes or withdraws its application during the interval between the specified date and time of submission of application or any extension thereof and expiration of the validity period of the application including extension thereof, the Earnest Money deposited would be forfeited.

The following may be noted in case of substituted tender:

- (a) It shall contain the Earnest Money irrespective of whether the same were deposited with the earlier tender.
- (b) The original tender shall be returned to the tenderer concerned without opening the same.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 15 of 41

---

**13) Special terms and Conditions**

**13.1) Timeframe for setting up of Transloading Facilities –**

Within 3 months from the date of granting permission letter for creation of Transloading Facilities by KoPT. The selected applicant will intimate in writing the date of commencement of actual operation.

**13.2) Period of permission –**

The service provider(s) so selected KoPT may be permitted to undertake Transloading operations for a period of 5 years from the date of granting permission letter. During this period, the service provider(s) will have to undertake transloading operations at the rates quoted by them and accepted by KoPT duly adjusted as per provisions of clause 13.3 herein below.

**13.3. Tariff Adjustment Provision –**

- (a) The agreed tariff will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2014 and 1 January of the relevant year. Such automatic adjustment of tariff will be made every year and the adjusted rate will come into force from 1<sup>st</sup> April of the relevant year to 31<sup>st</sup> March of the following year. When the applicable tariff is reviewed, variation in WPI will be measured with reference to the WPI as on 1<sup>st</sup> January of the year in which such a review is made.
- (b) For this purpose, the WPI for all commodities by the Government of India will be considered.
- (c) The base WPI for the purpose of tariff adjustment will be taken as on 1<sup>st</sup> January 2014 and the first price adjustment will be allowed with effect from 01<sup>st</sup> April 2015, considering the variation in WPI occurring during the period from 01<sup>st</sup> January 2014 to 01<sup>st</sup> January 2015. The base date of 01<sup>st</sup> January 2014 shall be taken into account for the said purpose irrespective of the scheduled date of submission of the final price offer.
- (d) **Illustration**
- (i) Let the agreed rate be INR. x. If the variation in WPI as of 1 January 2015 with reference to 1<sup>st</sup> January 2014 is (+) 5%, then the tariff cap for the year 2015 will be  $INR.x [1 + (5/100 \times 60/100)] = INR.1.03x$ . The revised rate will take effect from 1 April 2015 and will remain in force till 31<sup>st</sup> March 2016.
- (ii) If the variation in WPI as of 1<sup>st</sup> January 2016 with reference to 1<sup>st</sup> January 2014 is (-) 3%, then the allowable rate for the year 2016 will be  $INR x [1 + (-3/100 \times 60/100)] = INR 0.982x$ . The revised rate/s will take effect from 1<sup>st</sup> April 2016 and will remain in force till 31<sup>st</sup> March 2017

**13.4) Performance Guarantee**

- (i) The Successful Applicant (Service Provider) (the JVC / SPV in case of a consortium), after receipt of the permission to set up Transloading Facilities shall deposit a sum equivalent to INR 5 Crores (INR Five Crore only) within a period of 30 days from the date of issuance of permission. The above Performance Guarantee

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 16 of 41

---

will be required to be deposited in Demand Draft / Banker's Cheque only drawn in favour of "Haldia Dock Complex, Kolkata Port Trust" payable at Kolkata.

- (ii) Alternatively, the Service Provider may submit Performance Guarantee in the form of an 'irrevocable – encashable at call' Bank Guarantee on a Non-judicial Stamp paper of at least INR. 60/- issued by any Scheduled Bank in India within 30 days from the date of issuance of permission as per format to be provided by KoPT to the successful Applicant.. The Bank Guarantee must remain valid at least for a period of two years with an additional claim period of 6 months thereafter. The said Bank Guarantee shall have to be revalidated before expiry of the validity period for the same period (i.e. two years) with same additional claim period (i.e. 6 months) and continued like this till the end of the permission period.
- (iii) In the event of issuing Bank Guarantee by any branch outside Kolkata, any Kolkata Branch of such Bank shall confirm the same and stand by for all the commitments under the Bank Guarantee. In all cases, any dispute regarding such Bank Guarantee will be adjudicated under the jurisdiction of The Calcutta High Court.
- (iv) For non-fulfillment/ non compliance of any of the conditions stipulated in this document by the service provider or in case of occurrence of any event of default as mentioned at clause-14 of this document, KoPT will be at liberty to forfeit the above Performance Guarantee or raise claim against the said Performance Guarantee and / or enforce the same unilaterally.
- (v) The cost of executing the Performance Guarantee and extension /revalidation of the same, if any, shall have to be borne by the Service Provider. Failure in submission of Performance Guarantee as stated above may render the permission liable for cancellation and Earnest Money liable for forfeiture. No payment, even if otherwise admissible under the permission shall be released until and unless the Performance Guarantee is deposited by the Service provider

**14. Other Conditions –**

- a) It will be the responsibility of the service provider(s) to ensure adequate cargo for them by their own marketing initiatives.
- b) The Transshipper and the daughter vessels shall have all required certificates issued by the competent authority.
- c) The service provider(s) so permitted by KoPT shall only do transloading operations of cargo to be delivered to / originated from HDC and any other port/ location permitted by KoPT. In the event KoPT permits transloading operations in respect of cargo destined / originating to/ from other ports / locations permitted by KoPT, the same will be as per terms and conditions and on payment of such charges as will be prescribed by KoPT on case to case basis.
- d) The terms and conditions of transloading will be prescribed by KoPT which the service provider(s) shall have to abide by. Besides, the service provider(s) shall also abide by all statutory provisions relating to environment, maritime laws etc.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 17 of 41

---

- e) The service provider shall, at his own cost and arrangements, insure all of the equipment to be supplied, installed, operated and maintained by him as required by the law and ensure that these are revalidated from time to time throughout the period of the contract
- f) The service provider shall comply with the requirements of all the Acts, Laws, Statutes, Bylaws, Rules and Regulations for the purpose of fulfilling all the obligations of the contract which shall include but not limited to the Major Port Trust's Act, 1963, the Indian Contract Act, the Dock Workers (Safety, Health & Welfare) Regulations, 1987, Motor Vehicles Act, Minimum Wages Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Industrial Dispute Act, 1947, Shops and Commercial Establishment Act, Factory Act, 1948, Workmen's Compensation Act, 1923, ESI Act, 1948, Payment of Wages Act, 1963, Bonus Act, Employees Provident Funds & Misc. Provisions Act, 1952 etc. and such other applicable Central / State Acts from time to time and take such steps as may be deemed necessary in this regard.
- g) The Service provider shall, at all times during the currency of the contract, ensure highest standards of safety to the equipment deployed and / or operated by them under the provisions of the contract, vessels, people working on board & shore as well as other properties of KoPT or other parties while discharging the obligations under the provisions of the permission.
- h) In case of loss of life or injury caused to any person, the Service provider shall immediately pay the required compensation (as may also be decided by the statutory/ competent authority) to the affected party
- i) The service provider shall keep KoPT indemnified throughout the period of the permission for any loss, damage and expenses whatsoever which KoPT may suffer or may have to suffer due to fault on the part of the service provider in operating and maintaining the equipment and in discharging other obligations as per provisions of the permission.. Assessment of damages, expenses, cost etc. if any, will be carried out jointly by KoPT and the service provider. In case of absence of the service provider for joint inspection, assessment done by KoPT will be final and binding on the service provider.. In case the service provider damages property belonging to parties other than KoPT, assessment of damages, expenses, costs etc. if any, will be carried out jointly by KoPT, the service provider and the affected party concerned
- j)
  - (i) In order to make the transloading operations viable and attractive in the face of requirement of substantial investment, KoPT will not charge any tariff on the service provider(s) for undertaking transloading operations at the identified locations within KoPT's limit. However, for undertaking transloading operations within the limits of Paradip Port Trust, the charges as may be decided by Paradip Port Trust will have to be paid by the service provider(s).
  - (ii) KoPT will realize marine related charges viz. Pilotage charge, port dues etc. for the daughter vessels as per its SoR. KoPT may raise bills for marine related charges on the service provider on monthly basis.

**SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

- k) The service provider(s) shall have transparent Scale of Rates for realization of charges from the vessels / cargo interest. The service provider(s) shall charge the following tariff:-

Item	Remarks
Transfer of cargo between the mother vessel and the daughter vessel (or vice versa)	<p>As per rates to be approved by TAMP.</p> <p>The Transshipment charges to be framed shall be a single charge for transfer of cargo between mother and daughter (both for import and export cargo) irrespective of whether the said transfer had taken place with or without intermediate storage.</p> <p>KoPT is in the process of filing its application before TAMP for approving ceiling rate of Rs 127.41 per ton (for foreign cargo) and Rs.76.47 per ton (for the coastal cargo) as ceiling rates w .r. t Transshipment charges.</p> <p>Till such time TAMP approved rates are obtained, the service providers will be allowed to realize cargo handling charges by Transshipper within the above mentioned ceiling rates on ad-hoc basis.</p> <p>After approval of TAMP, the ceiling rates so approved by TAMP will be applicable.</p> <p>In case TAMP approves rate for undertaking transshipment operations lower than the proposed rate, then the successful applicant will be allowed to increase the quoted rate for cargo transportation by daughter vessel by the amount equivalent to the reduction in the transshipment charges.</p> <p>In case TAMP approves rate for undertaking transshipment operations higher than the proposed rate, then the successful applicant will be required to reduce the quoted rate for</p>

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 19 of 41

	cargo transportation by daughter vessel by the amount equivalent to the increase in the transshipment charges.
Transportation of cargo by daughter vessels to and from HDC and all other associated works	As per rate to be quoted by the service provider and accepted by KoPT. The conditionalities for charging the tariff shall be approved by KoPT from time to time.

- l) KoPT may consider granting appropriate priorities (calling / sailing/ berthing) to the daughter vessels /moving between Transshipper and HDC to ensure lowest turn round time of the daughter vessels which in turn would ensure low / minimum incident of waiting of mother vessels at the transloading point(s) as also increase transloading capacity.
- m) KoPT may also consider to grant appropriate priorities to the Mother vessels that will visit after partial discharge at the Transloading point for which appropriate priority charges will be levied.
- n) KoPT may also consider granting concession in cargo related charges to importers/exporters based on volume of cargo handled through Transloading arrangements to attract the importers/ exporters to use the Transloading facilities.
- o) The Service Provider(s) may enter into long term contract with any user to increase utilization of the Transloading capacity and throughput of cargo at HDC. Such users may be given priority in cargo transfer to and from the Mother vessels and allocation of the daughter vessels. Apart from this, the service provider(s) shall ensure management and operation of the transloading facilities and services on a common user basis and refrain from indulging in any unfair or discriminatory practices against any user or potential user thereof.
- p) The service provider(s) shall have to take prior permission of KoPT for removing / replacing / altering any of the facilities so set up.
- q) The following events or circumstances not attributable to the service provider which may adversely affect transloading operations at the transloading point shall be considered as Force Majeure Event:-

“Acts of God, heavy and incessant rain, dense fog severely affecting visibility, storm, cyclone, hurricane, tsunami, fire / smoke etc (to the extent originating from a source other than the equipment to be supplied, installed, operated and maintained by the Contractor), Wave Height exceeding – 2 to 2.5 mtr., Wind Speed exceeding – 25 knots per hour.”

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 20 of 41

---

**15 Event of Default:**

- a) In case the service provider fails to set up Transloading Facilities within 3 months as given at Clause-13.1 of this document.
- b) If the service provider fails to perform or discharge any of its obligation as stipulated in this document.
- c) The representation made, or documents / certificates submitted or warranties given by the service provider during the tendering stage or during the currency of the permission is / are found to be false or misleading
- d) The service provider is adjudicated bankrupt or become insolvent.
- e) The service provider assigns or transfers the facilities to any third party without permission from KoPT.
- f) If there is any change in control / ownership of the service provider arising from sale, assignment, transfer without prior permission of KoPT.
- g) If the service provider through its employees get engaged or wrongly takes part in prohibited or unlawful activities or even fails to prevent such prohibited / unlawful activities.
- h) If the service provider fails to achieve stipulated outputs in transfer of cargo as mentioned under clause-2.3 of this document for 3 months within a block period of 12 months from the date of commencement of actual operation.

**Note** – The monthly outputs will be computed using the same formula as mentioned under clause-2.3 above. However, for monthly output, instead of using the data for each vessel, the monthly data of cargo transfer and stay of mother / daughter vessel along side the Transshipper will be computed.

- i) If the transloading facilities remain out of commission for a continuous period of 30 days.
- j) If the service provider removes / replaces/ alters the facilities without permission of the port.

**16 Consequences of Event of Default:**

- (a) In the event of occurrence of any event of default as mentioned at Clause 15 above, KoPT may proceed for terminating the permission along with forfeiture of the Performance Guarantee. KoPT after terminating the permission will give three (3) months (termination period) notice within which time the service provider will be required to peacefully remove the facilities.

**SUBJECT:       SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

Page 21 of 41

---

- (b) During the termination period of 3 months as at (a) above, the service provider may be asked by KoPT to continue to discharge its obligations under the permission which the service provider would be capable of performing and as may be mutually agreed upon with the object, as far as possible, of ensuring continued availability of the facilities and services to the port users.
  
- (c) No compensation shall be paid by KoPT to the service provider in the event of termination of the permission.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 22 of 41

---

**ANNEX-I**

**Profile of The Applicant**

1.
  - (a) Name
  - (b) Country of incorporation
  - (c) Address of the corporate headquarters and its branch office(s), if any in India.
  - (d) Date of incorporation and commencement of business.
  
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in connection with implementation of the tender.
  
3. Details of individual(s) of the applicants (Lead Member in case of Consortium) who will serve as the point of contact/ communication with KoPT.
  - (a) Name :
  - (b) Designation :
  - (c) Company :
  - (d) Address :
  - (e) Telephone Number :  
(Land & Mobile)
  - (f) E-Mail Address :
  - (g) Fax Number :
  
4. Details of Authorized Signatory of the Applicant:
  - Name :
  - Designation :
  - Company :
  - Address :
  - Telephone No. :  
(Land & Mobile)
  - Fax No. :
  - Email Address :
  
5. In case of a Consortium:

**SUBJECT:       SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

- a.     The information above (1-4) should be provided for all the members of the consortium.
- b.     information regarding role of each member should be provided as per table below:

Sl. No.	Name of Member	Role
1.		
2.		
3.		
4.		

**Signature of Power of Attorney Holders .....**

**Name:** .....

**Designation:** .....

**Date :** .....

**Seal**

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 24 of 41

**ANNEX-II****Past Transloading Experience of the Applicant**

Annual Throughput (in million tonnes)

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

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

**Instructions :**

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

**SUBJECT:      SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
                  AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST**

- (a) Description of location : .....
- (b) Contact details of the concerned Authority under whose jurisdiction each location falls
  - (i) Name of the Contact Person(s)
  - (ii) Designation(s)
  - (iii) Business Title of the Authority
  - (iv) Address
  - (v) Telephone / Mobile No.
  - (vi) Fax
  - (vii) Email

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

**Name: .....**

**Designation: .....**

**Date : .....**

**Seal**

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**CERTIFIED BY**

**Name of Authority under whose jurisdiction the experience has been gathered or by the exporters / importers concerned whose cargo has been transferred midstream by a transshipper .....**

**Address with Phone No. /E-mail .....**

**Name of the Signatory .....**

**Designation of signatory .....**

**Signature .....**

**Date : .....**

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 26 of 41

---

**ANNEX-III**

**Details of Daughter Vessels committed to be deployed**

Type	Numbers proposed to be supplied	LOA	Beam	DWT	Parcel load proposed to be carried	Other details



SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 28 of 41

---

**ANNEX-V**

**Details of Tugs, Fenders and other infrastructure committed to be deployed**

Type of Facility	Bollard Pull /Capacity	Nos. to be deployed	Other details
Tugs			
Mooring Launch			

- 2) Please specify details of Fenders and other infrastructure committed to be deployed separately herein below.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**ANNEX-VI**

**Details Of Financial Capability Of The Applicant**

(In Rs. Crore)

Applicant Type	Net Worth
	Year -1
Single entity Tenderer	
Consortium Member 1	
Consortium Member 2	
Consortium Member 3	
Consortium Member 4	

Please add more rows depending upon Consortium Members.

Instructions:

1. The Single Entity Tenderer/ each members of Consortium should submit its details in the appropriate column.
2. Net Worth = (Subscribed and Paid-up Equity + Reserve) – (revaluation reserves + Miscellaneous expenditure not written off + depreciation not provided for)
3. Year 1 will be the latest year for which audited financial statements are available.

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

**Name:** .....

**Designation:** .....

**Date :** .....

**Seal**

**CERTIFIED BY**

**Name of Chartered Accountant Firm .....**

**Registration No. & other details .....**

**Name of the Signatory .....**

**Signature .....**

**Designation .....**

**Date :** .....

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**ANNEX- VII**

**Format For Power Of Attorney For Signing Of Tender**

**(To be executed before Notary Public on a Non-Judicial Stamp Paper of at least Rs 100)**

Dated: \_\_\_\_\_

**POWER OF ATTORNEY**

**To whomsoever it may concern**

Mr. \_\_\_\_\_ [Name of the Person(s)], residing at  
\_\_\_\_\_ [Address of the person(s)], acting as  
\_\_\_\_\_ (Designation of the person and name of the firm), and whose  
signature is attested below, is hereby authorized on behalf of  
\_\_\_\_\_ [Name of the applicant (in case of a  
consortium, name of the lead member)] to sign the application [(Application No.  
.....and (Application subject- ".....")] and submit  
the same and is hereby further authorized to provide relevant information/ document and respond  
to the enquiry's etc. as may be required by Kolkata Port Trust (KoPT) in respect of all the  
applications.

And I/ we hereby agree that all acts, deeds and things lawfully done by our said attorney shall be  
construed as acts, deeds and things done by us and I/ we undertake to ratify and confirm all and  
whatsoever that my / our said attorney shall lawfully do or cause to be done for me / us by virtue  
of the power hereby given.

(Attested signature of Mr. \_\_\_\_\_)

For \_\_\_\_\_ (Name of the Tenderer / Consortium Members with  
Seal)

**Note –**

(In case of Consortium, representative of all members must sign)

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**ANNEX- VIII**

**Format For Power Of Attorney For Lead Member Of Consortium**

**(To be executed before Notary Public on a Non-Judicial Stamp Paper of at least Rs 100)**

**POWER OF ATTORNEY**

Whereas Haldia Dock Complex, Kolkata Port Trust ("the Authority") has invited applications from interested parties for "....." (Application No. ....).

Whereas, ....., ....., ..... And ..... (collectively the "Consortium") being members of the Consortium are interested in submitting application in accordance with the terms and conditions of the Application Seeking Document and other connected documents in respect of the applications, and

Whereas, it is necessary under the Application Seeking Document for the members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's application and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, M/s. .... having our registered office at ....., M/s..... having our registered office at ....., M/s. .... having our registered office at ....., and M/s. .... having our registered office at ....., [the respective names and addresses of the registered office] (hereinafter collectively referred to as the "Principals") do hereby designate, nominate, constitute, appoint and authorize M/s. .... having its registered office at ....., being one of the members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorize the Attorney to conduct all business for and on behalf of the Consortium and any one of us during the application process and, in the event the Consortium is awarded the Permission, during the execution of the project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its application, including but not limited to signing and submission of applications and other documents and writings, participate in Pre Bid and other conferences/meetings, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of application of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's application for the tender and/or upon award thereof till the permission is guided by the appropriate Authority.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

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

IN WITNESS HEREOF WE HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF .....20\*\*

For .....

.....

(Name & Title)

For .....

.....

(Name & Title)

For .....

.....

(Name & Title)

Witnesses:

1.

2.

.....

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

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 33 of 41

**ANNEX - IX**

**Joint Bidding Agreement**

*(To be executed on Non-Judicial Stamp Paper of at least Rs. 100/-)*

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

**AMONGST**

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

**AND**

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

**AND**

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

**AND**

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

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

**WHEREAS,**

- (A) [KOLKATA PORT TRUST, established under the Major Port Trusts Act-1963 and having Principal Office at 15,Strand Road,Kolkata-700001 (hereinafter referred to as the "**KoPT**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications for selection of successful applicant for the transloading operations as proposed in the Application Seeking Document.
- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the application seeking document and other documents in respect of the work, and

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 34 of 41

---

- (C) It is a necessary condition under the Application Seeking Document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the application.

**NOW IT IS HEREBY AGREED as follows:**

**1. Definitions and Interpretations**

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the application seeking document.

**2. Consortium**

2.1 The Parties do hereby irrevocably constitute a consortium (the "**Consortium**") for the purposes of jointly participating in the Application Process for the Work.

2.2 The Parties hereby undertake to participate in the process for selection of service provider for Transloading only through this Consortium and not individually and/ or through any other consortium constituted for this work, either directly or indirectly or through any of their Associates.

**3. Covenants**

The Parties hereby undertake that in the event the Consortium is declared the successful applicant and awarded the permission, it shall incorporate a special purpose vehicle (the "**SPV**") under the Indian Companies Act 1956 for entering into an Agreement with the KoPT and for performing all its obligations as the successful applicant in terms of the Agreement for the Project.

**4. Role of the Parties**

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

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the application process and till all the obligations of the SPV shall become effective;
- (b) Party of the Second Part shall be {the Technical Member of the Consortium ;}
- {(c) Party of the Third Part shall be the Financial Member of the Consortium; and}
- {(d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.}

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**[Note: Status of the members in (b), (c) and (d) are only illustrative. More/less parties may form the Consortium and changes may be made accordingly to the JBA]**

**5. Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the work and in accordance with the terms of the application seeking document till completion of the permission period.

**6. Shareholding in the SPV**

6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

{Third Party:}

{Fourth Party:}

6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till completion of two years from the date of commencement of the permission period, be held by the Parties of the First, {Second and Third} Part whose experience and net-worth have been reckoned for the purposes of pre-qualification in terms of the application seeking document.

6.3 The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times till completion of two years from the date of commencement of the permission period.

6.4 The Parties undertake that they shall comply with all the requirements as stipulated in the application seeking document vide N.I.T. No. .... dated .....

**7. Representation of the Parties**

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

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 36 of 41

---

- (a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power to enter into this Agreement / arrangement with KoPT;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and KoPT to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
  - (i) Require any consent or approval not already obtained;
  - (ii) Violate any Applicable Law presently in effect and having applicability to it;
  - (iii) Violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
  - (iv) Violate any clearance, permit, concession, grant, licence or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - (v) Create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**8. Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the permission period is achieved under and in accordance with the terms of the application, in case the permission is awarded to the Consortium.

However, in case the Consortium is either not pre-qualified for the work or does not get selected for award of the permission, the Agreement will stand terminated in case the applicant is not pre-qualified or upon return of the Earnest Money by the KoPT to the Bidder, as the case may be.

**9. Miscellaneous**

9.1 This Joint Bidding Agreement shall be governed by laws of India.

9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the KoPT.

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

SIGNED, SEALED AND DELIVERED  
For and on behalf of  
LEAD MEMBER by:

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

SIGNED, SEALED AND DELIVERED  
For and on behalf of  
THIRD PART by:

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

SIGNED, SEALED AND DELIVERED  
For and on behalf of  
SECOND PART by

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

SIGNED, SEALED AND DELIVERED  
For and on behalf of  
FOURTH PART by

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

In the presence of:

1.

2.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 38 of 41

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***Notes:***

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
  2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and KoPT to execute this Agreement on behalf of the Consortium Member.
  3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.
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SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

Page 39 of 41

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**ANNEX-X**

**Covering Letter**

**Dated :**

To,  
Manager (Admn.)  
Haldia Dock Complex,  
Kolkata Port Trust,  
Jawahar Tower Complex,  
P.O. Haldia Township,  
Dist. Purba Medinipore,  
Pin-721607  
West Bengal

Dear Sir,

1. I/we, \_\_\_\_\_ (Name of applicant) having examined the Application Seeking Document and understood its contents, hereby submit our application for ..... at Haldia Dock Complex, Kolkata Port Trust.
2. All information provided in the application including Addenda and in the Appendices are true and correct and all documents accompanying such application are true copies of their respective originals.
3. I/We shall make available to Kolkata Port Trust (hereinafter referred to as KoPT) any additional information it may find necessary or require to supplement or authenticate the application.
4. I/we acknowledge the right of KoPT to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. I/we also certify the following
  - a. I/we / any of the consortium member (as the case may be) have not been debarred by the Central/State Govt. or any entity controlled by them or any other legal authority for participating in any application / contract / agreement of whatever kind
  - b. I/we certify that in the last three years, I/We/any of the consortium members or our / their associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority/entity nor have had any contract terminated by any public authority / entity for breach on our part.

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

6. I/we declare that :
- a) I/we have examined and have no reservations to the Application Seeking Document, including the Addenda issued by KoPT thereon.
  - b) I/we hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt, fraudulent or coercive practices to influence the evaluation process of the application.
7. I/we understand that KoPT reserves the right to accept or reject any application and to annul the application process and reject all applications at any time without any liability or any obligation for such acceptance, rejection or annulment without assigning any reason thereof.
8. \_\_\_\_\_ ( Name of Applicant) hereby undertakes that I/we will abide by the decision of KoPT in the matter of examination, evaluation and selection of successful applicant and shall refrain from challenging or questioning any decision taken by KoPT in this regard.

Thanking you,

Yours faithfully,

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

**Name: .....**

**Designation: .....**

**Date : .....**

**Seal**

SUBJECT: SETTING UP OF TRANSLOADING FACILITIES FOR HANDLING DRY BULK CARGO  
AT HALDIA DOCK COMPLEX; KOLKATA PORT TRUST

**ANNEX-XI**

**T A R I F F   F O R M A T**

**Setting up of Transloading facilities for handling Dry Bulk Cargo at Haldia Dock  
Complex, Kolkata Port Trust**

Tariff (in INR per ton) for undertaking transportation of cargo by daughter vessels to and from HDC and all other associated works.	In Figure	In Word

**Signature of Power of Attorney Holders .....**

**Name: .....**

**Designation: .....**

**Date : .....**

**Seal**