



**Syama Prasad Mookerjee Port, Kolkata.**

**श्यामा प्रसाद मुखर्जी पोर्ट, कोलकाता**

## **GLOBAL TENDER**

### **TENDER DOCUMENT**

**FOR**

**MAINTENANCE DREDGING IN HOOGHLY ESTUARY  
IN THE SHIPPING CHANNEL  
OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

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***Tender Ref. No. SMPK/MRN/SDDS/GBL/MDRG/HAL/I of November 2021***

**PART-1**

**(TECHNICAL & COMMERCIAL BID)**

**Syama Prasad Mookerjee Port, Kolkata (SMPK)**  
**15, Strand Road**  
**Kolkata-700001**

**A. NOTICE INVITING E-TENDER**

Tender Ref. No : <i>SMPK/MRN/SDDS/GBL/MDRG/HAL/I of November 2021</i>	Dated: 23.11. 2021
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Syama Prasad Mookerjee Port, Kolkata (SMPK) intend to engage a Contractor for carrying out maintenance dredging in the Hooghly Estuary primarily in the shipping channel leading to Haldia Dock Complex for a period of five years.

Bid document may be downloaded from <https://kopt.enivida.in> & on SMPK's website "[www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)". Corrigenda or clarifications, if any, shall be hosted on the above mentioned website only.

**SCHEDULE OF TENDER (SOT)**

(i)	Tender Number	<i>SMPK/MRN/SDDS/GBL/MDRG/HAL/I of November 2021</i>
(ii)	Tender e-Publishing date	23.11.2021
(iii)	Document download start date	24.11.2021 at 1000 hrs
(iv)	Date of submission of pre-bid queries, if any	07.12.2021 by 1200 hrs
(v)	Pre-bid meeting	08.12.2021 at 1100 hrs through Google Meet joining info Video call link: <a href="https://meet.google.com/yro-mxkq-qgr">https://meet.google.com/yro-mxkq-qgr</a>
(vi)	Bid Submission Start Date	15.12.2021 at 1100 hrs

(vii)	Bid Submission Last Date	27.12.2021 up to 1500 hrs
(viii)	Technical Bid Opening date	28.12.2021 at 1530 hrs
(ix)	Financial Bid Opening date	To be intimated later
(x)	EMD (Earnest Money Deposit)	Not required. Only 'Bid Security Declaration' as detailed below to be submitted.
(xi)	Bid Document fee.	<p>The intending bidders also should submit the tender fee of INR 20,000/- (Rupees Twenty Thousand only) + applicable GST to Haldia Dock Complex separately by RTGS / NEFT along with their offer directly into the designated bank account of Syama Prasad Mookerjee Port, Kolkata, Haldia Dock Complex</p> <p>Name of Bank &amp; Branch: Punjab National Bank, Haldia Dock Complex Branch.</p> <p>Account No.: 1604050000310</p> <p>IFS Code: PUNB0160420.</p> <p>Concerned vendors / contractors must ensure that the remitting bank positively enters their name and Tender no. in the 'Sender to Receiver' column at the time of making payment of Bid document fee by RTGS / NEFT. Details of Bid document fee remitted should be entered by the participating vendor / contractor in the space provided in the e-tender as indicated hereunder.</p> <p>a. Name of remitting vendor / contractor:  b. Tender No:  c. Amount remitted:  d. Date of remitted:  e. U.T.R No.</p>
(xii)	Performance Security	3% of the Contract value.

## B. SMP, KOLKATA, eNivida SPECIAL INSTRUCTION TO BIDDERS.

1.1 e-Procurement is the complete process of e-Tendering from publishing of tenders online, inviting online bids, evaluation and award of contract using the system. You may keep a watch of the tenders floated under <https://SMPK.enivida.in> The link of e-procurement portal is also given on our official portal i.e. <https://www.kolkataporttrust.gov.in/> under TENDER TAB.

These will invite for online Bids. Bidder Enrolment can be done using "Online Bidder Enrolment".

The instructions given below are meant to assist the bidders in registering on the e-tender Portal, and submitting their bid online on the e-tendering portal as per uploaded bid. More information useful for submitting online bids on the eNivida Portal may be obtained at: <https://kopt.enivida.in>

### 1.2 GUIDELINES FOR REGISTRATION:

1. Bidders are required to enrol on the e-Procurement Portal (<https://kopt.enivida.in/bidderRegistration/newRegistration>) or click on the link "Bidder Enrolment" available on the home page of e-tender Portal by paying the Registration fee of Rs.2000/-+Applicable GST.
2. As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.
3. Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication with the bidders.
4. Upon enrolment, the bidders will be required to register their valid Digital Signature Certificate (**Only Class III Certificates with signing + encryption key usage**) issued by any Certifying Authority recognized by CCA India (e.g. Sify / TCS / nCode / eMudhra etc.), with their profile.
5. Only valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSC's to others which may lead to misuse.
6. Bidder then logs in to the site through the secured log-in by entering their

user ID /password and the password of the DSC / e-Token.

7. The scanned copies of all original documents should be uploaded in pdf format on e-tender portal.
8. After completion of registration payment, bidders need to send their acknowledgement copy on our help desk mail id [enividahelpdesk@gmail.com](mailto:enividahelpdesk@gmail.com)/for activation of account.

### **1.3 SEARCHING FOR TENDER DOCUMENTS**

1. There are various search options built in the e-tender Portal, to facilitate bidders to search active tenders by several parameters.
2. Once the bidders have selected the tenders they are interested in, you are required to pay processing fee (NOT REFUNDABLE) by net-banking / Debit / Credit card then you may download the required documents / tender schedules, Bid documents etc. Once you pay fee tenders will be moved to the respective 'requested' Tab. This would enable the e- tender Portal to intimate the bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.

### **1.4 PREPARATION OF BIDS**

1. Bidder should take into account any corrigendum published on the tender document before submitting their bids.
2. Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid.
3. Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document / schedule and generally, they can be in PDF formats. Bid Original documents may be scanned with 100 dpi with Colour option which helps in reducing size of the scanned document.
4. To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, GST, Annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use "My Documents" available to them to upload such documents.
5. These documents may be directly submitted from the "My Documents" area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process. Already uploaded documents in this section will be displayed. Click "New" to upload new documents.

### **1.5 SUBMISSION OF BIDS.**

1. Bidder should log into the website well in advance for the submission of the

- bid so that it gets uploaded well in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.
2. The bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document as a token of acceptance of the terms and conditions laid down by SMP, Kolkata.
  3. Bidder has to select the payment option as “e-payment” to pay the tender fee / EMD, if stipulated in the tender and enter details of the instrument.
  4. In case of BG bidder should prepare the BG as per the instructions specified in the tender document. The BG in original should be posted/couriered/given in person to the concerned official before the Online Opening of Financial Bid. In case of non-receipt of BG amount in original by the said time, the uploaded bid will be summarily rejected.
  5. Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard BOQ format with the tender document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the BOQ file, open it and complete the white Colour (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the BOQ file is found to be modified by the bidder, the bid will be rejected.
  6. The server time (which is displayed on the bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.
  7. The uploaded tender documents become readable only after the tender opening by the authorized bid openers.
  8. Upon the successful and timely submission of bid click “Complete” (i.e. after Clicking “Submit” in the portal), the portal will give a successful Tender submission acknowledgement & a bid summary will be displayed with the unique id and date & time of submission of the bid with all other relevant details.
  9. The tender summary has to be printed and kept as an acknowledgement of the submission of the tender. This acknowledgement may be used as an entry pass for any bid opening meetings.

#### **1.6 For any clarification in using eNivida Portal:**

1. Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender.
2. Any queries relating to the process of online bid submission or queries relating to e-tender Portal in general may be directed to the Helpdesk Support.

Please feel free to contact eNivida Helpdesk (as given below) for any query related to e-

tendering. Phone No. 011-49606060/7278929467/8448288981.

Mail id: - [enividahelpdesk@gmail.com](mailto:enividahelpdesk@gmail.com)/ ewizardkumar@gmail.com/

Contact Person (SMP, Kolkata):

1. Capt. C.P. Ashok, Dy. Superintendent, Dredger & Despatch Service.  
Phone: 9674720055  
E-mail: cpashok@ kolkataporttrust.gov.in.
2. Capt. Abhijit Ghosh, General Manager, Marine,  
Phone:9836298699,  
E-mail: a.ghosh@kolkataporttrust.gov.in.

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## 1.0 TENDER NOTICE

<b>Tender No : <i>SMPK/MRN/SDDS/GBL/MDRG/HAL/I of -----</i></b> <b>2021</b>	<b>Dated: -----2021</b>
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Syama Prasad Mookerjee Port, Kolkata (SMPK) intends to engage a Contractor for carrying out maintenance dredging in Hooghly Estuary primarily in the shipping channel leading to Haldia Dock Complex for a period of five years.

ESTIMATED VALUE OF THE TENDER IS INDIAN RUPEES (INR) **1720 CRORE** FOR FIVE YEARS.

PERIOD OF CONTRACT: FIVE YEARS.

PQ criteria have been fixed on one year's estimated value of work of **Rs.344 CRORE**.

## 2.0 PRE-QUALIFICATION CRITERIA

The intending Bidders, which include the company, firm, consortium, group of companies and joint venture or any of their partners or members jointly or severally, will be pre-qualified in terms of the Pre-qualification criteria indicated herein below as well as set out in the bid document.

The pre-qualification criteria shall be as follows:

- i) Experience of having successfully completed similar works during the last 7 years ending **31<sup>st</sup> October 2021**, should be either of the following:-
  - a. Three similar completed works, each work costing not less than the amount equal to INR 137.6 Crore or equivalent /executed quantity not less than 4.328 Million Cubic Metre.
  - OR
  - b. Two similar completed works, each work costing not less than the amount equal to INR 172 Crore or equivalent /executed quantity not less than 5.41 Million Cubic Metre.
  - OR
  - c. One similar completed work, work costing not less than the amount equal to INR 275.2 Crore or equivalent /executed quantity not less than 8.656 Million Cubic Metre.

d. The average annual financial turnover of the firm during the last 3 years ending March, 2021 should be at least INR 103.2 Crore or equivalent.

ii. **Similar work** shall mean experience of carrying out capital and or maintenance dredging works.

**Note: Work experience as a sub-contractor shall be considered as the requisite qualification only if same was awarded in consonance with the Principal Employer.**

iii. **Price preference shall be given to Indian Dredging Companies as per guidelines of Govt. of India. Details are at Clause 53.0**

iv. Claims for fulfilling the above criteria must be adequately supported by appropriate documents like work order, performance certificate from Clients, Company's Annual Reports, Audited Balance Sheet and Profit and loss account for last 3 Financial Years (i.e. 2017-18, 2018-19, 2019-20) or last 3 Calendar Years (i.e. year ending 31/12/2018, 31/12/2019 & 31/12/2020).

### **3.0 TENDER AUTHORITY:**

#### **General Manager, Marine**

*Syama Prasad Mookerjee, Port, 15, Strand Road, Kolkata-700 001*

*Phone: 033-2230-3451-Extn: 375, Telefax:-033-2231-0105*

*Fax No: 033-2230-4901*

*E-mail: [a.ghosh@kolkataporttrust.gov.in](mailto:a.ghosh@kolkataporttrust.gov.in)*

*Web-site: [www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in).*

**NB:** Chairman, SMPK reserves the right to change the tender authority / Engineer of the contract with prior notice.

### **4.0 OTHER INSTRUCTIONS**

4.1 Tender with supporting documents shall be submitted online.

4.2 Tender should be submitted within the specified date and time as specified in the tender. Syama Prasad Mookerjee Port, Kolkata will not be responsible in any way for Postal delay.

4.3 Mere issuance / downloading of Tender Document shall not mean that a particular Bidder will be automatically considered qualified and their bid will be entertained. Such qualifications will be reviewed at the time of evaluation of bids.

4.4 Tender Document (Non-transferable) will be available from the office of the General

Manager, Marine, 15, Strand Road, Kolkata-700 001. 'Tender document may be downloaded from <https://kopt.enivida.in> & on SMPK's website "[www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)".

- 4.5 Tenders shall be submitted on line up and **Part -I** of Bid i.e. Techno-Commercial Bid will be opened as scheduled in presence of the authorized representatives of bidders who intend to be present. The last date of submission of the tender will not be extended under any situation. **Part -II**, i.e Price Bid of only those Bidders who have qualified techno-commercially, shall be opened at a later date under intimation to all concerned.
- 4.6 SMPK reserve the right to reject all the tenders or to accept any tender in whole or in part without assigning any reason whatsoever.
- 4.7 Further amendments, if any, would also appear in the same websites.

#### **5.0 Security Clearance.**

Prequalification of bidders is subject to security clearance from Govt. of India. The bid received from any tenderer may be summarily rejected on National Security consideration without any intimation thereof to the tenderer. The tenderer has to submit details as at **Appendix-I (4 formats)** along with the tender for the purpose of obtaining security clearance from the Govt. of India.

Security clearance accorded to the dredging companies would be valid for five years for a particular port. During this period, the concerned dredging company shall communicate to the Ministry of Shipping the information regarding

##### **a) Any change in management control of the company.**

In such cases, fresh security clearance shall be obtained. The dredging companies will be bound to communicate the information on changes in management control to the Ministry of Shipping within two weeks and any lapse can result in withdrawing the security clearance already granted. This information will be communicated to the security agencies by the Ministry of Shipping within one month of the change take place for seeking fresh security clearance.

##### **b) Change of more than 10% in the company by any shareholder.**

In such cases, the dredging companies will be bound to communicate information on changes in shareholding of the company to the Ministry of Shipping within two weeks and any lapse can result in withdrawing the security clearance already granted.

This information will be communicated to the security agencies by the Ministry of Shipping within one month of the change taking place. In case, as a result of any change in shareholding of the company, if any security concern is raised in the course of enquiry, the Ministry of Shipping would immediately

take necessary action on the findings.

**c) Any change in equipment or vessel involving foreign origin.**

Approval for any change in equipment or vessel involving foreign origin and clearance for engagement of foreign personnel will be obtained from all security agencies. In this regard, Ministry of Shipping would share all such information with the Ministry of Home Affairs (MHA), Ministry of Defence (MoD) and Ministry of External Affairs (MEA). If a dredging company, which has already been cleared, wishes to bid for another Port, it would require clearance only from the Ministry of Defence/Indian Navy. However, the information regarding award of the dredging project including particulars of the vessels and the foreign personnel should be shared with MHA, MEA and MoD.

**6.0 MODE OF SUBMISSION OF BID**

6.1 The tenders are to be submitted in two parts i.e. Part-I & Part-II. Part-I should constitute the Technical Bid and Terms and Conditions of offer and Part-II should constitute only the Price Bid without any Deviation and Condition.

**6.2 Part-I (Techno-Commercial) shall contain the following documents:**

- a) Brief particulars of the Firm mentioning company's registration).
- b) Copy of the document relating to details of Similar Works previously carried out by the firm with value & period of each work.
- c) Copies of Performance Certificates of previous works carried out.
- d) Copies of the Audited Balance Sheet and Profit and Loss Account for last 3 years (i.e. 2018-19, 2019-20, and 2020-21).
- e) Photocopy of the Treasury Receipt (TR)/ Transaction Report of the Tender Fee & Bid Security Declaration in lieu of EMD.
- f) A separate letter addressing to General Manager, Marine confirming that the tenderer has accepted all terms and conditions laid down in the Bid document.
- g) Details of Supervision and Liaison set up planned to be used for supervision and co-ordination of the work.
- h) Signed blank copy of Price Bid format.
- i) Form of Tender duly filled in bidder's Letter Head (Format in GCC).
- j) A declaration that the firms / group of companies / consortium have not been debarred / de-listed by any Govt. / Quasi-Govt. / Public Sector Undertakings.
- k) Complete and signed copy of the enclosed 'Integrity Pact' (Format at Annexure-I).
- l) Completed formats assigned for Security Clearance from GOI.
- m) Completed relevant formats in case of JV/ Consortium.
- n) Authentic documents relating to registration under GST Authority and ESI Authority as applicable.
- o) Copy of the Current Trade License as applicable.
- p) Copy of Provident Fund Registration Certificate as applicable.

- q) A declaration from the bidder that he or she will not be associated with any other bidding firms or company.
- r) Power of Attorney in original in connection with signing the tender document.
- s) Copy of the Memorandum & Article of Association in case of Limited Company.
- t) Copy of the Partnership Deed in case of Partnership Firm.
- u) All form and formats duly filled in as given at Appendixes.

- 6.2.1 The contractor shall submit the documents as per the Check List above (Clause-6.2) at the time of submission of the bid online. However, the bids will be summarily rejected without any reference to the bidder if the documents mentioned against Sl. No. b, c, d, e & r are not submitted with the bid.
- 6.2.2 THE DOCUMENTS UPLOADED BY BIDDER(S) WILL BE SCRUTINISED. IN CASE ANY OF THE INFORMATION FURNISHED BY THE BIDDER IS FOUND TO BE FALSE DURING SCRUTINY, EMD OF DEFAULTING BIDDER(S) WILL BE FORFEITED. PUNITIVE ACTION INCLUDING SUSPENSION AND BANNING OF BUSINESS CAN ALSO BE TAKEN AGAINST DEFAULTING BIDDER(S).
- 6.2.3 The bidders are required to submit experience of having successfully completed similar works in US Dollars or in Euro or in Indian Rupees. SMPK shall convert the value expressed in US Dollar or Euro into Indian Rupees, at the respective bill selling rates quoted by State Bank of India, prevailing on 1 (one) day prior to the last date of submission of bid. If on this date, due to any reason, such exchange rates are not available (Forex Market may be closed), the latest available rates immediate prior to that date shall be considered

Similar methodology shall be followed for conversion of average annual financial turnover expressed in US Dollar or Euro into Indian Rupees.

- 6.3 Part-II (Price Bid) shall be submitted as per the enclosed format without any condition or deviation.

## **7.0 INSTRUCTIONSTO BIDDERS**

- 7.1 Bidders are advised to submit quotation based upon Technical specification, terms and conditions, Scope of Work contained in the Bid documents and General Conditions of Contract and not to stipulate any deviation. Should it, however, become unavoidable, deviations should be suggested during pre-bid meeting. SMPK reserves the right to accept or reject the suggested deviations. No deviation from the laid down conditions of the Bid document is firm unless it is notified by SMPK.
- 7.2 The Bid Document downloaded to the Bidder is not transferable. A firm shall submit only one bid in the same bidding process, either individually as a bidder or as a partner in a joint venture. No firm can be a sub-Contractor while submitting a bid

individually or as a partner in a joint venture in the same bidding process. A bidder who submits or participates in more than one bid will cause all their bids in which the bidder has participated to be disqualified.

- 7.3 Indian agent on behalf of the Principal or Principal itself can bid but both cannot bid simultaneously for the tender.
- 7.4 If an agent submits bid on behalf of the Principal, the same agent shall not submit bid on behalf of another principal.
- 7.5 Bid Document shall remain as the property of SMPK.
- 7.6 SMPK will not be responsible for any costs or expenses incurred by the Bidder in connection with the preparation and submission of his bid or for any other expenses incurred in connection with such bidding.
- 7.7 The work is to be done as described in Bid-document. The Bidders who needs clarifications on any specific issue shall inform the Engineer in writing well in advance of the date of pre-bid discussion at the address given in the next clause.
- 7.8 If the bidders find any discrepancy or omission in the Bid Document or have any doubt as to the meaning or intent of any part thereof, they shall at once inform the Engineer, who may send a written explanation to the queries. No oral interpretations shall be made by any Bidder as to the meaning, if any, of the provisions of the Bid documents. Every request for an interpretation shall be in writing, addressed and forwarded to the Engineer at the following address:  
  
General Manager, Marine  
Syama Prasad Mookerjee Port, Kolkata,  
15, Strand Road,  
Kolkata-700 001.
- 7.9 The bidders may please note that SMPK will not entertain any correspondence or queries on the status of the offers received against this Bid.
- 7.10 Bidders are also requested not to depute any of their personnel or agents to visit SMPK's Offices for making such inquiries. Should SMPK find it necessary to seek any clarification, technical or otherwise, the concerned bidder will be duly contacted by SMPK.
- 7.11 Canvassing in any form by the Bidder or by any other agency acting on behalf of the Bidder after submission of the bid will disqualify the said bidder. SMPK may reject, accept or prefer any bid without assigning any reason whatsoever.
- 7.12 Faxed / e-mail offer / physical delivery will not be considered. Bidders should prepare their Bid themselves. Bids prepared by agents will not be recognized. SMPK will not be liable for any financial obligation in connection with any work until such time SMPK communicates to the successful bidder in writing his decision to entrust



the work (covered by the Bid document).

- 7.13 In case of unscheduled Holiday / Bandh on the date of pre-bid meeting / opening of tenders, the same will be opened on the next working day at the scheduled time. The Bidders will also be allowed to submit on-line their tenders till 1400 hours on such extended day of opening.
- 7.14 The General Conditions of Contract (GCC) of Kolkata Port shall be applicable wherever relevant. The GCC may be downloaded from SMPK website, 'Home page - Rules and Regulations- Non-service Regulations.'

## **8.0 EARNEST MONEY DEPOSIT**

- 8.1 No EMD is required to be deposited by the participating bidders. However, they are required to submit the **Bid Security Declaration** as per the prescribed format as given at **Annexure-II**, failing which the respective bid would not be considered for evaluation.

## **9.0 SECURITY DEPOSIT**

- 9.1 Successful bidder will submit Security Deposit for a sum equivalent to **3% of the total evaluated** value as per price bid of the tender, as accepted by SMPK, in Demand Draft or in the form of Bank Guarantee as per the enclosed format at **Annexure-III** in favour of '**Syama Prasad Mookerjee Port, Kolkata**' from a National/Scheduled Indian Bank with branch at Kolkata / Haldia. In the event of Bank Guarantee is issued by any branch outside Kolkata / Haldia, any Kolkata / Haldia Branch of such Bank shall counter guarantee the same and stand by for all 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. In case of Bank Guarantee, the same shall remain valid for 3 months after the final expiry of the contract. The Security Deposit will be released within 60 days after successful completion of the contract period.
- 9.2 SMPK shall encash the Bank Guarantee in the event the Contractor fails to supply the dredgers and commence operation immediately after expiry of mobilization period at the order of Engineer or his authorized representative or when any amount is to be recovered from the Contractor as penalty or deduction and the contractor fails to remit such amount within 30 days after due notice given to him in this regard.
- 9.3 The General Manager, Marine shall have the right to ask for the extension of the above Bank Guarantee till such time the Contractual obligations are fulfilled and the Contractor will be duty bound to extend the same.
- 9.4 After the issuance of 'Letter of Intent', Security Deposit will have to be submitted within **15** working days. Work order will be issued immediately after receipt of Security Deposit. The contractor shall commence the work within the prescribed mobilization period after issuance of 'Letter of

Intent’.

## **10.0 INSTRUCTION FOR FILLING THE BIDS**

- 10.1 The bids can only be submitted in the name of the bidder in whose name the bid documents were issued by Syama Prasad Mookerjee Port, Kolkata.
- 10.2 The Bid and any annotations or accompanying documentation shall be in English language only and in metric system.
- 10.3 Bidders shall sign their proposal and all attached documents with the exact name of the firm to whom the bid document has been issued. The bid shall be duly signed and sealed by an authorized executive officer of the bidder’s organization.
- 10.4 Each page of the submitted 'Bid document including General Conditions of Contract & amendments if any' shall be signed by a duly authorised officer and in case of a Corporation same shall be sealed with the corporate seal or otherwise appropriately executed under seal .
- 10.5 Bidders shall clearly indicate their legal constitution and the person signing the tender and also shall state his capacity and also the source of his ability to bind the bidder. The power of attorney or authorization or any other document constituting adequate proof of the ability of the signatory to bind the bidder, shall be annexed to the bid. SMPK may reject outright any bid unsupported by adequate proof of the signatory's authority.
- 10.6 The bid document shall be completed in all respect and shall be submitted together with requisite information and appendices. It shall be complete and free from ambiguity, change or inter lineation.
- 10.7 Bidders should indicate at the time of quoting against this bid their full postal and E-mail address& fax number (s).
- 10.8 Bidders shall set their quotations in firm figure and without any qualifications. Each figure stated should also be repeated in words and in the event of any discrepancy between the amounts stated in figure and words, the amount quoted in words shall be deemed to be the correct amount.
- 10.9 Price Bids, containing any sort of qualifying expressions will be rejected.
- 10.10 Bidders shall submit along with their offer the ‘Bid Security Declaration’ as per **Clause - 8.0**. This shall bind to keep his offer valid for acceptance up to **180 days** from the date of opening of Part-I (Techno Commercial Part) and to abide by all the conditions of SMPK’s Bid Document.
- 10.11 Changes to terms and conditions as enumerated in the bid document will not be valid if not notified by SMPK in writing to the bidder. In the event of SMPK intend to or awards the work to the selected bidder and the bidder fails to submit

Security Deposit in stipulated time, the contract may be terminated and Bidder banned for doing any business with SMP, Kolkata for three years.

- 10.12 SMPK reserves the right to ask any one of the bidders, who have submitted their price quotations to submit a break-up of the submitted prices with adequate justification to establish for each such component. Bidders to confirm in writing in the form of Tender that should SMPK deem it necessary to ask for such a break up of quoted price, they will be duty bound to do so as requested by SMPK, they shall be further duty bound to provide justification to the same, failing which or if their justification of prices are found unacceptable to SMPK, their Tender may be cancelled by SMPK.
- 10.13 General Manager, Marine or his representative may convene meeting with the bidder with Seven days prior notice which the bidders will have to attend, failing which decisions of the General Manager, Marine taken unilaterally will be final and binding on the bidder.
- 10.14 The original and all copies of the bid shall be typed or written in indelible ink (in the case of copies, photocopies are also acceptable) and shall be signed by a person or persons duly authorized to sign on behalf of the bidder. The person or persons signing the bid shall initial all pages of the bid where entries or amendments have been made.
- 10.15 The bid shall contain no alterations, omissions, or additions, unless such corrections are initialled by the person or persons signing the bid.
- 10.16 SMPK the right to accept or reject the bids in part or as a whole and do not bind themselves to accept the lowest or any bid or to assign any reason thereof and no damage claim whatsoever will be payable by SMPK. Downloading of tender documents to any bidder or opening of commercial bid of any bidder shall not construe that such bidder is considered automatically qualified.

#### **11.0 JOINT VENTURES/CONSORTIUM AND OTHER FORMS OF ASSOCIATION**

In case the tender is submitted in joint venture/consortium, the Bidder shall submit the following confirmation along with their offer submitted for this tender.

- i) All joint venture agreements/ consortium agreements, technical collaboration agreement shall ensure that all parties of the joint venture/consortium are individually and jointly responsible for the tender conditions and such agreements are legally valid.
- ii) Joint venture/consortium should be in the nature of legally acceptable agreements and such agreements should be notarized.

- iii) Such joint venture/consortium agreement should contain explicitly the scope and responsibilities of all the partners in the joint venture/consortium in terms of financial and technical commitments/contribution. The JV/consortium should be equally, severally and jointly responsible.
- iv) One of the members of the consortium shall be authorized as being in-charge (lead member), and this authorization shall be evidenced by a power of attorney duly signed by the authorized signatories of the consortium Members as per the format enclosed in the tender document.
- v) The validity of the joint venture/consortium agreement entered upon on the award of Letter of Acceptance (LOA) by the port should continue for entire period of contract as specified in the tender. All such agreements shall be irrevocable for the above periods.
- vi) Firms with at least 26% equity holding each shall be allowed to jointly meet the eligibility criteria.
- vii) Where the bidder is a consortium the average annual financial turnover of the individual members forming the consortium shall be submitted.
- viii) The purchaser of the tender document must be a member of the consortium submitting the tender.
- ix) It is clarified that an unsuccessful bidder or JV/Consortium shall not be permitted to join a successful JV/Consortium whose bid is accepted at a later date.
- x) In case of a Consortium, the combined Technical and Financial Capability 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) as explained in this tender document, should satisfy the above conditions of eligibility, provided that each such member shall, for a period of 2 (two) years from the date of commercial operation of the contract, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.

#### **11.1 FURTHER CONDITIONS FOR JV/CONSORTIUM:**

Intending tenderer (s), as Consortium, is eligible to participate in the tender. The term 'Tenderer' used in this document would apply to either a Single Entity or a group of entities, i.e. a Consortium. Further, the Tenderer may be a natural person, private entity, government owned entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a

Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in this tender document.

(a). The Tenderer shall not have a conflict of interest that affects the Tendering Process. Any Tenderer found to have a **Conflict of Interest** shall be disqualified. A Tenderer shall be deemed to have a **Conflict of Interest** affecting the Tendering Process, if:

(i) The Tenderer, its Member or Associate (or any constituent thereof) and any other Tenderer, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Tenderer, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Tenderer, its Member or Associate, as the case may be) in the other Tenderer, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act 1956, or any of its subsequent amendment. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:

(aa) Where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and

(bb) Subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis ; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb). (i) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; **OR**

(ii) A constituent of such Tenderer is also a constituent of another Tenderer; **OR**

(iii) Such Tenderer, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Tenderer, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Tenderer, its Member or any Associate thereof; **OR**

(iv) Such Tenderer has the same legal representative for purposes of this Tender as any other Tenderer; **OR**

(v) Such Tenderer, or any Associate thereof has a relationship with another Tenderer, or any Associate thereof, directly or through common third party/parties, that puts either or both of them in a position to have access to each others'

information about, or to influence the Tender of either or each other.

(b). A Tenderer shall be liable for disqualification if any legal, financial or technical adviser of SMPK in relation to the Tender is engaged by the Tenderer, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Tender. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Tenderer, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this Tender. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the contract.

**Explanation:** In case a Tenderer is a Consortium, then the term Tenderer, as used above, shall include each Member of such Consortium.

**Note:**

Notwithstanding anything to the contrary contained in this tender document, in the event of any member of any Consortium suffering from a Conflict of Interest, the offer of such consortium shall be treated as disqualified. However, in the event of similar situation arising / detected after placement of LOI, the same shall have to be addressed and resolved by the Consortium, failing which the contract, if entered into, shall be terminated.

In this regard, it must be borne in mind that suppression of such Conflict of Interest, if detected later, shall not absolve the Consortium of its responsibility and appropriate action shall be initiated in terms of the provision of the tender.

The Tenderer(s) shall have valid documents as listed in various clauses of this tender document including those given at Clause 6.0 and submit the same in the manner as stipulated.

## **11.2 Technical & Financial Capability.**

The tenderer (whether a single entity or a consortium) must satisfy pre-qualification criteria as stipulated at Clause-2.0

## **11.3 Assessment of eligibility:**

11.3.1 In case of a Consortium, the combined Technical and Financial Capability 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) as explained in this tender document, should satisfy the above conditions of eligibility, provided that each such member shall, for a period of 2 (two) years from the date of commercial operation of the contract, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity of the SPV.

- 11.3.2 The entity claiming the capability 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.
- 11.3.3 Experience of any activity relating to an 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.
- 11.3.4 The Tenderer shall submit a Power of Attorney as per format given at **Appendix -2**, authorizing the signatory of the Tenderer to submit the tender.
- 11.3.5 Where the 'Successful Tenderer' is a 'Consortium', it shall be required to form an appropriate 'Special Purpose Vehicle' or SPV, incorporated under the Indian Companies Act 1956, to execute the Contract Agreement and execute the contract. 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 **Appendix -3**, signed by all the other members of the Consortium;
  - b. The Tender shall contain the information required for each member of the Consortium as per **Appendix-4**.
  - c. The Tenderer 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 **Appendices-5 & 6**.
  - d. An individual (single entity) Tenderer participating in the instant tender shall not be a member of any other Consortium participating in the instant tender; further, a member of a particular Consortium shall neither submit any tender individually nor shall be a member of any other Consortium participating in the instant tender;
  - e. Members of the Consortium shall enter into a binding Joint Bidding Agreement (JBA) (substantiated in the form specified at **Appendix-7**, for the purpose of submitting Tender. The JBA, to be submitted along with the Tender, shall, inter alia:
    - (i) Convey the intent to form an SPV with shareholding / ownership equity commitment(s) in accordance with this tender, which would enter into the Contract Agreement and subsequently perform all the obligations of SMPK in terms of the said agreement, in case the Contract is awarded to the Consortium;
    - (ii) Clearly outline the proposed roles and responsibilities, if any, of each member; Commit the minimum equity stake to be held by each member;

(iii) Commit the minimum equity stake to be held by each member;

(iv) Commit that each of the members, whose experience will be evaluated for the purposes of this Tender, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commencement of dredging operation under the contract, hold equity share capital not less than 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV;

(v) Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the completion of two years from the date of commencement of the contract and

(vi) Include a statement to the effect that all members of the Consortium shall be liable and responsible jointly and severally for all obligations of SMPK in relation to the contract throughout the contract period.

f. Except as provided under the Tender Document, including its Addendum, if any, there shall not be any amendment to the said JBA without the prior written consent of SMPK.

11.3.6 The Single Entity participating in the tender or all the members of the Consortium participating in the tender 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 tender / contract / agreement of whatever kind. An undertaking in this regard shall be given by the Tenderer in the Covering Letter as per **Appendix-8**.

11.3.7 A Tenderer 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 tender, 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 Tenderer, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Tenderer, Consortium Member or Associate as per **Appendix-8**.

11.3.8 In computing the Technical Capability and Financial Capacity of the Tenderer / Consortium Members, the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

**Note:**

For purposes of this Tender, 'Associate' means, in relation to the Tenderer/Consortium Member, a person who controls, is controlled by, or is under the common control with such



Tenderer/Consortium Member. As used in this definition, the expression ‘control’ means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

#### **11.4 Change in composition of the Consortium**

11.4.1 Change in the composition of a Consortium shall not be permitted by SMPK either during the ‘Techno-commercial Evaluation Stage’ [i.e., from the ‘date of issuance of Tender.’ up to the ‘date of notification of the techno-commercially valid tenders’] or during the ‘Price-Evaluation Stage’ [i.e., from the ‘date of notification of the techno-commercially valid tenders’ up to the ‘date of placement of Letter of Intent (LOI)’. The same may be permitted only after placement of LOI 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 SMPK.
- 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 Technical & 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 tender. (ii). In case of removal of any member without substitution, the remaining member(s) shall fulfill the pre-qualification criteria of the tender. (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 Tender already made on behalf of the Consortium as if it/they were a party to it originally, and is/are neither a Tenderer/Member/Associate of any other Consortium participating in this tender nor a single entity having participated in this tender.

11.4.2 Approval for change in the composition of a Consortium shall be at the sole discretion of SMPK and must be approved by SMPK in writing. SMPK reserves the right to reject any tender if:

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

Note: If the Tenderer is a Consortium, then the entire Consortium may be disqualified / rejected. If such disqualification / rejection occurs after the tenders have been opened and the Lowest Tenderer gets disqualified / rejected, then the Authority reserves the right to take any such measure as may be deemed fit in the sole

discretion of SMPK, including annulment of the Tendering Process.

- 11.4.3 If any Tenderer, after downloading the tender document, makes any modification / alteration in the Tender Document, the tender submitted by the said Tenderer will be rejected outright.

## **12.0 INSTRUCTION FOR FILLING UP PRICE BID**

- 12.1 The Bid shall be quoted in and as per format of Price Bid as given at clause 52.0.

### **12.2 Currency of Quotations**

The bidder shall indicate the prices in Indian Rupees only. The bidder shall not quote in any other currency other than Indian Rupees.

### **12.3 Validity of Price Bid**

Price Bid shall be valid for acceptance for a minimum period of 180 days (one hundred eighty days) from the scheduled date of opening of Part-I i.e. Techno Commercial bid.

- 12.4 The contractor shall prefer his claim pertaining to this variation **along with monthly bill.**

$$R = 0.28 * 0.85 * V * \{(I - I_0) / I_0\}.$$

Where,

R = Amount to be paid / recovered.

V = Payment paid to the contract or for that particular period.

$$R = 0.28 * 0.85 * V * \{(I - I_0) / I_0\}.$$

Where,

$I_0$  = Price of fuel of IOCL as on -----at Haldia.

I = Changed price of fuel of IOCL at Haldia.

- 12.5 DELIVERY/ REDELIVERY of the dredger (s) and ancillary equipments will be at Haldia.

- 12.6 The contractor may engage sub-contractor subject to permission of the Engineer of the contract.

## **13.0 DUTIES & TAXES**

- a. The prices quoted shall be including all statutory levies but excluding GST. GST should be indicated separately in the relevant column of BOQ. The summation of all item-wise total prices (excluding GST) (i.e. Grand total as mentioned in BOQ) would be the basis of evaluation.
- b. Supplier / Service Provider to confirm that the GST amount charged in invoice is declared in its returns and payment of taxes is also made.
- c. The Supplier / Service Provider agrees to comply with all applicable GST

laws, including GST acts, rules, regulations, procedures, circulars & instructions there under applicable in India from time to time and to ensure that such compliance is done within the time prescribed under such laws. Supplier / Service Provider should ensure accurate transaction details, as required by GST laws, are timely uploaded in GSTN. In case there is any mismatch between the details so uploaded in GSTN by Supplier / Service Provider and details available with Syama Prasad Mookerjee Port, Kolkata, then payments to Supplier / Service Provider to the extent of GST relating to the invoice/s under mismatch may be retained from due payments till such time Syama Prasad Mookerjee Port, Kolkata is not sure that accurate tax amount is finally reflected in the GSTN to SMPK's Account and is finally available to Syama Prasad Mookerjee Port, Kolkata in terms of GST laws and that the credit of GST so taken by Syama Prasad Mookerjee Port, Kolkata is not required to be reversed at a later date along with applicable interest.

- d. Syama Prasad Mookerjee Port, Kolkata has the right to recover monetary loss including interest and penalty suffered by it due to any non-compliance of tax laws by the Supplier / Service Provider. Any loss of input tax credit to Syama Prasad Mookerjee Port, Kolkata for the fault of supplier shall be recovered by Syama Prasad Mookerjee Port, Kolkata by way of adjustment in the consideration payable.
- e. Supplementary invoice/debit note/credit note for price revisions to enable Syama Prasad Mookerjee Port, Kolkata to claim tax benefit on the same shall be issued by you for a particular year before September of the succeeding Financial Year.
- f. The purchase order/work order shall be void, if at any point of time you are found to be a black listed dealer as per GSTN rating system and further no payment shall be entertained.
- g. If any new taxes and duties, increase in existing taxes and duties are imposed by the central / state government and is applicable in this contract, these shall be paid by the Trustees in addition as the same are not included in the quoted rates.
- h. In case any change in GST law/ provisions after the scheduled last date of submission of the tender results in any additional benefit of input tax credit and/or any savings in the hands of the contractor vis-à-vis what was available prior to scheduled last date of submission of the tender, the benefit/ savings in this account shall have to be passed on to SMP, Kolkata by the contractor in full. The contractor shall also be obliged to submit details of such savings /benefits duly certified by their Statutory Auditors periodically as per requirement of SMP, Kolkata”.

## **14.0 MOBILIZATION & DEMOBILIZATION**

### **14.1.1 Mobilization Period:**

On placement of 'Letter of Intent', the dredgers & equipment are to be mobilized at Haldia and commence dredging within 30 days and commence operation.

#### 14.1.2 Mobilization & De-mobilisation Charges:

No Mobilization & De-mobilisation charges will be payable to the contractor separately. Such costs should be included in the dredging Charges proportionately.

#### 14.1.3 Penalty for delay in mobilization:

Delay in complete mobilization of the equipment as per accepted dredging plan will attract a penalty @ 2.5% per week of Security Deposit.

#### 14.2 Demobilization Period

Demobilisation is to be completed within 45 days of completion of the contract period.

### 15.0 Interpretation of Terms

In the Contract and specifications the following words and expressions shall have the meanings as follows:

**THE TRUSTEES** - The expression 'THE TRUSTEES' means the Board of Trustees for the Port of Kolkata.

**THE CHAIRMAN** means the Chairman of the Board and includes the person appointed to act in his place under Section 14 and 14A of the Major Port Trusts Act, 1963.

**THE DEPUTY CHAIRMAN, Haldia** means the Deputy Chairman, HDC, or, as the case may be, a Deputy Chairman of a Board and includes the person appointed to act in his place under section 14 of the Major Port Trusts Act, 1963.

**THE DIRECTOR MARINE DEPARTMENT** - The expression 'The Director, Marine Department' means the office holding that post under the Trustees and includes his successors in office.

**THE GENERAL MANAGER, MARINE, HDC** - The expression 'The General Manager, Marine' means the officer holding that post under the Trustees and includes his successors in office.

**THE FINANCIAL ADVISOR & CHIEF ACCOUNTS OFFICER**- The expression 'The Financial Advisor & Chief Accounts Officer (FA&CAO)' means the officer holding that post under the Trustees and includes his successors in office.

**THE GENERAL MANAGER FINANCE**- The expression 'The General Manager, Finance' means the officer holding that post under the Trustees and includes his successors in office.

**THE CHIEF ENGINEER** - The expression 'Chief Engineer' means the officer holding that post under the Trustees and includes his successors in office.

**THE SUPERINTENDENT, DREDGER & DESPATCH SERVICE**- The expression 'The Superintendent, Dredger & Despatch' means the officer holding that post under the Trustees and includes his successors in office.

THE ENGINEER - The expression 'The Engineer' means the General Manager, Marine, for the purpose of this contract only.

THE ENGINEER'S REPRESENTATIVE - The expression 'The Representative' means any officer or person from time to time deputed by the Trustees or General Manager, Marine / Engineer of the Contract to act on their behalf for the purpose of this contract.

THE VESSEL - The expression 'The Vessel' means the Dredgers, barges and ancillary equipments required to carry out the work successfully.

DAY - means duration of 24 hours commencing at 00.00 hours midnight till 24.00 hours and includes Sundays and Holidays.

MONTH - means English Calendar Month.

NAVIGABLE DEPTH - means least sounding in the entire dredging area within 4 navigable tracks having a width of 345 Metres for Jellingham & Haldia Anchorage and Channel width of 460 Metres at Eden which will be indicated by the Engineer of the contract.

## **16.0 INFORMATION ON SITE OF WORK.**

The two dock systems, one at Kolkata and the other at Haldia on the Hugli estuary under the administrative control of Syama Prasad Mookerjee Port, Kolkata, are located 144 km and 44 km inland respectively, from Sagar Island at the mouth of the estuary debouching into the Bay of Bengal. The estuary is "alluvial" and perennially "well mixed". The entire navigational channel from Eden to Haldia Anchorage is interspersed with shallow stretches classified as shallow-crossings/bars/shoals/sand-encroachments having pinnacle shoals at places, eddies, cross currents with tidal current varying from 2 knots to 5 knots (Approximately).

Proceeding downstream from Kolkata, the estuary becomes braided around a central island - the Nayachara Island opposite Haldia Dock - downstream of Diamond Harbour at about 100 Km from Kolkata. The estuary becomes broader and fans out into principally two channels.

(A) On the east along Diamond Harbour-Kantabaria-Kulpi-SilverTree - Bedford - Sagar Island.

(B) On the west along Diamond Harbour-Balari -Haldia-Jellingham-Auckland-Eden.

## **17.0 ADEQUACY OF THE TENDER**

Presently, SMPK is maintaining the depths in the channel by regular dredging through Trailing Suction Hopper Dredgers (TSHD). Primarily, the dredged materials from Jellingham & Haldia Anchorage are being dumped freely at Lower Sagar Dumping site at the distance of about 60 KM away from dredging sites. The dredged spoils from Upper Eden are being dumped at Lower Eden Area at distance of 22 KM.

Some quantity of dredged material is also being disposed off through side casting methodology while dredging. For disposal of the dredged material at Lower Sagar Dumping site, the dredger has to pass through Lower Jellingham channel, Upper Auckland, Maragolia Corridor, Maragolia Crossing and Sagar Roads. However, SMPK is presently utilising Eden channel for shipping to Haldia.

The intending bidders are advised to visit the sites and satisfy themselves on the actual site conditions, soil to be dredged and the areas identified for disposal of dredged materials, before tendering. Whatever information given in the tender document is only intended as a general guidance for the contractor and no warranty is given for the correctness of the same.

**The information being provided in the Tender document does not relieve the Bidders from carrying out the works to suit the specified needs. The Bidder shall inspect the site and may conduct trials at their own cost and risk and use any and every other method to ensure the adequacy of their offer including the suitability and capability of the equipment proposed to be deployed for execution of the work.**

## **TECHNICAL SPECIFICATIONS**

### **18.0 DISPOSAL TOLERANCES**

All dredged materials shall be dumped within the limits of the specified disposal areas as indicated in the tender or in the areas to be specified by the Engineer of the contract.

The contractor shall ensure that no dredged material is dumped in the navigational channel due to defect of the dredger or for any reason. In the event of accidental dumping, contractor shall remove the material immediately at his own cost and risk.

### **19.0 MATERIALS TO BE DREDGED**

Alluvial in nature and consists of fine sand, silt, clay and mud.

### **20.0 HYDROGRAPHIC SURVEY TO ASCERTAIN NAVIGABLE DEPTH**

20.1 Before commencement of dredging, a joint hydrographical survey with the contractor shall be undertaken to ascertain the depths in various localities (Base Level) in the dredging areas. Thereafter, similar joint surveys will be carried out once in every neap tide which will occur twice in each month. The least recorded depth in one neap survey shall remain valid till the next neap survey and shall form the basis of calculating reduction and disincentive of monthly payout. All surveys shall be carried out in frequencies 200-210 Khz.

The contractor, will however, be at liberty to conduct independent surveys at any time for the purpose of regular monitoring of the dredging progress.

20.2 In all cases, survey shall generally be undertaken only during daylight hours. The date and time of survey will be decided by the Engineer's representative and the same will be binding on the Contractor. The raw survey data may be read, interpreted and processed either manually or electronically, depending upon the available resources and recorded in a log book. The log book shall be signed jointly by the Engineer's and the Contractor's representatives. The soundings would be reduced to Hugli River Datum which is 2.822 m below Mean Sea Level and will be depicted on a paper chart prepared manually or electronically to indicate the minimum depth available between any two fixes as per relevant echo trace. Spacing between survey lines Horizontal Datum and Scale of the charts will be decided by the Engineer.

20.3 The contractor shall provide a suitable steel hulled launch with equipment, spares & consumables including manning, fuel etc. for conduct of all surveys at his own cost. The launch should be certified by the authority to ply in the surveying areas round the year. The launch should be fitted with a hydrographical model echo-sounder having frequency between 200 - 210 Khz, interfaced with heave sensors,

DGPS and automated data collection software. Provisions for bar check / calibration of the echo-sounder are to be provided. The launch should have a toilet with other basic amenities for the Engineer's representatives.

#### **21.0 MINIMUM INTERFERENCE WITH NAVIGATION / PILOTAGE**

Dredging shall be carried out with minimum interference to navigation and movement of vessels as well as other conservancy works of the port and in accordance with the directions of the Engineer of the Contract.

#### **22.0 EXCAVATION AND DREDGING WORKS**

Dredging is to be undertaken in accordance with **the scope of the work as specified in the tender document.**

The Contractor shall provide the Engineer, at the end of each week the Daily Dredging Reports (DDRs) for each dredger duly signed by the Master of the Dredger as well as Engineer's (SMPK) representative on board the dredger. The DDR format is at **Attachment-A.**



## SPECIAL CONDITION OF CONTRACT

### 23.0 GENERAL

These provisions of the Special Conditions of Contract & Technical Specifications shall be deemed to override the provisions of the General Conditions of Contract, only to the extent of such repugnancy or variations in the Special Conditions of Contract & Technical Specifications, as are not possible of being reconciled with the provisions of General Conditions of Contract.

### 24.0 SCOPE OF WORK

24.1 The work primarily involves dredging at Haldia Anchorage, Jellingham, Lower Jellingham Crossing, and Upper Eden & Lower Eden to achieve the targeted depth so that vessels can safely approach Haldia Dock Complex. The work also involves execution of specified quantum of dredging at Haldia Reach in earmarked areas (Zones M-1, U-1 & U-2).

24.2 The particulars of shipping channel from Haldia Anchorage to Lower Eden along with salient deliverables / milestones of the work are as follow:

Sl. No.	Areas	Limits	Length (KM)	Width (m)	Present navigable depth (m)	Proposed depth to be maintained (m)	Annual dredging requirement as estimated by SMPK consultant (MM <sup>3</sup> )	Dumping ground	Distance of dumping ground (KM)	Hydro-graphic Chart. Plan No.
1.	Haldia Anchorage	22°00'54" N to 22°00'00" N	2.5	345	5.0	≥ 4.8 M.	4.2	Lower Sagar Area (Lat 21° 32'48"N Long. 087° 59'54"E )	64	
2.	Jellingham	22°00'00" N to 21°54'00" N	12.3	345	4.9	≥ 4.8 M.			56	

3.	Lower Jellingham Crossing	21°54'00" N to 21°51'24" N	5.3	345	4.9	Minimum dredging is required occasionally			47	
4.	Upper Eden	21°47'00" N to 21°41'00" N	11.7	460	5.6	≥ 5.3 M.	4.3	Lower Eden Area (Lat 21° 30'00"N Long. 087° 53'00"E )	22	
5.	Lower Eden	21°41'00" N to 21°30'00" N	2	600	6.7	≥ 6.5 M	0.8	Sea Dumping (Lat 21° 10'00"N Long. 088° 00'00"E )	48	

The dredging and dumping areas duly demarcated in relevant charts are at **Attachment-**.

- 24.3 Dredged materials may also be dumped partially or fully ashore at Nayachara Island or any other suitable area within a distance of 5KM from dredging site, if land is made available by SMPK at no extra cost to SMPK.
- 24.4 The dredged materials also to be disposed off through rain-bowing / side casting at a distance of at least 80 m from the dredging position. Such disposal by rain-bowing/side-casting will, however, is allowed when the tidal range of the dredging area is 3.8 m or more. **The total quantity dredged through rain-bowing / side casting shall not exceed 0.10 Million Cubic Metres in any month subject to maximum of 1.0 Million Cubic Metres per annum.** The rain-bowing / side casting may be carried out simultaneously during dredging without filling the hopper as well as after filling hopper. The dredger may also be required to fill up the hopper with dredged materials from the dredging site and dispose the materials at any location through rain bowing /side casting operation. Overboard discharge from the dredger shall not be considered as rain-bowing/side-casting.
- 24.5 The dredging at **Zone-M1, Zone-U1 & Zone-U2 of Haldia Reach** are required to be dredged upto the levels of 8m, 7m & 4m at **Zone-M1, Zone-U1 & Zone-U2** respectively during the 1<sup>st</sup> year of the contract by dredging 3.6 MM<sup>3</sup> and thereafter 1.0 MM<sup>3</sup> per year. The dredging at **Zone-U1 & Zone-U2** may be considered separately by utilizing a Cutter Suction Dredger or Grab as practicable in addition to TSHD towards improvement of depths at the shortest possible time especially during 1<sup>st</sup> year of the contract. In case of dredging by deploying Cutter Suction Dredger, the dredged materials is to be pumped ashore at the designated site

provided by SMPK within 5 KM from the dredging site, otherwise dumping is to be carried out at Lower Sagar Dumping area.

- 24.6 The dredging at Lower Eden has to be completed during the fair weather season only since dredging therein may not be practicable round the year due to prevailing weather conditions.
- 24.7 SMP, Kolkata will have the liberty to direct the contractor to dredge any other areas within the jurisdiction of SMPK.
- 24.8 Dredging is to be done along the channel and within a zone of 50 m horizontally from the either edges of the channel. Volume dredged outside the dredging zone will not be considered for the calculation of the volume for the purpose of compensation/ cut back as mentioned in Clause-31.0.
- 24.9 The dredgers proposed shall be capable of carrying out simultaneous rain-bowing/side casting as well as filling the hopper. For this purpose, the dredgers shall be fitted with arrangements for rain-bowing/ side-casting from any one side of the dredger at a distance of at least 80 Metres from the dredging position. The nozzle should be fitted at an angle of 60° to 90° from centreline of the dredger with 45° vertical angle.
- 24.10 The dredgers proposed to be deployed also should be highly manoeuvrable and capable of undertaking precision dredging in the tidal condition of the River Hugli without blocking shipping and to be fitted with adequate electronic gadgets & equipments. The dredgers also are to be fitted with standard DLM & other equipments for the purpose of measurement of productions.
- 24.11 Dredging will also be required to be carried out as necessary in other areas between Haldia Anchorage & Lower Eden, not envisaged at present, for the purpose of availing best draught of the shipping channel.
- 24.12 The dredging project would be monitored by National Technology Centre for Ports, Waterways & Coasts (NTCPWC), the Technical Wing of Ministry of Ports, Shipping & Waterways, Government of India throughout the execution of the contract. In the event of any course corrective measure recommended by NTCPWC will have to be implemented by the contractor.

## **25.0 Base Level, Targeted Depths and silt volume norms**

- 25.1 The Base Level Depths for different dredging areas would be as follows:

Areas	Base Level Depth (in M from CD)	Targeted depth (in M from CD)
Haldia Anchorage, Jellingham and Lower Jellingham Crossing.	4.8	$\geq 4.8$
Upper Eden	5.3	$\geq 5.3$
Lower Eden	6.5	$\geq 6.5$

- 25.2 Norms for annual volume of dredged materials for maintaining depths are given below:

Areas	Maintaining Targeted Depth (M from CD)	Volume norm (Million Cubic metres)
Haldia Anchorage, Jellingham and Lower Jellingham Crossing.	$\geq 4.8$	4.2 per annum.
Upper Eden	$\geq 5.3$	4.3 per annum.
Lower Eden	$\geq 6.5$	0.8 per annum.

Norm for annual volume of dredged materials at Haldia Reach would be 3.6 MM<sup>3</sup> during the 1<sup>st</sup> year and thereafter 1.0 MM<sup>3</sup> per year.

- 25.3 SMPK is contemplating execution of a project relating to re-use /gainful utilization of dredged materials to ensure viable dredging project and least environmental degradation. Bidders are therefore, required to look into the aspect and submit proposal with cost benefit analysis for gainful utilization of dredged materials. However, this proposal / financial analysis will have no repercussion on pre-qualification & financial evaluation.
- 25.4 At the time of handing over the sites to the Contractor, if the navigable depths in the Areas as mentioned above, are less than the 'Base Level' depths, the Contractor shall be provided time for increasing the depths to the Base Levels subject to maximum of 2 months. The aforesaid depth related disincentive (Clause-26.1) only shall not be imposed till restoration of Base Level depths or 2 months whichever is earlier.

## 26.0 DISINCENTIVE AND PENALTY

- 26.1 If the depth falls below Base Level depth at any of the areas, Haldia Anchorage, Jellingham, Lower Jellingham Crossing & Upper Eden, a disincentive @ 2.5% of equivalent monthly amount per month derived from BOQ for Haldia Anchorage, Jellingham, Lower Jellingham Crossing & Upper Eden only taken together shall be deducted for the applicable period (proportionately) for each 0.1 Metre fall in depth from the targeted depths at Jellingham / Haldia Anchorage /Lower Jellingham Crossing/ Upper Eden. Maximum fall in depth in any area out of Jellingham, Haldia Anchorage, Lower Jellingham Crossing & Upper Eden shall be taken into account for working out disincentive.
- 26.2 In case of dredging in Haldia Reach, a disincentive shall also be applicable for shortfall of monthly dredging target i.e. 1/12<sup>th</sup> of respective annual requirement. The monthly disincentive shall be equivalent to the shortfall percentage of value of monthly quantity as derived from BOQ & monthly requirement of dredging.

- 26.3 In the event of shortfall of dredging quantity (area-wise) from the annual norm a penalty equivalent to 50% value of the shortfall quantity (area-wise) will be applicable as penalty. This penalty will be applicable in addition to disincentive.
- 26.4 In the event dredging is carried in any area other than the areas of the shipping channel as stipulated in the tender, disincentive and penalty shall not be applicable for the concerned period.

Note: Examples showing calculations of disincentive & penalty are given at Annexure-VI.

## 27.0 TECHNICAL EVALUATION

The bidder is required to deploy the dredgers as detailed below:

1 <sup>st</sup> Year of Contract	1. A suitable Cutter Suction Dredger or Grab <b>for Zone-U1 &amp; Zone-U2 of Haldia Reach.</b> 2. At least three TSHDs having hopper capacity more than 4500 M <sup>3</sup> , Loaded Draft not more than 6.7 M and speed not less than 10 knot.
Subsequent Years	At least three TSHDs having hopper capacity more than 4500 M <sup>3</sup> , Loaded Draft not more than 6.7 M and speed not less than 10 knot.

Bidders are required to propose dredgers along with specifications for technical evaluation failing which the bidder will be disqualified at the techno-commercial stage.

## 28.0 ADDITIONAL DREDGERS AND EQUIPMENT

During execution of the contract, the contractor may deploy additional dredgers and equipments at his own cost for maintenance of Targeted depth, which will be allowed subject to approval of the Engineer. No additional charges will be payable to the contractor for additional dredgers & equipments.

## 29.0 SUBSTITUTION OF DREDGERS / EQUIPMENT

- 29.1 In case any of the offered equipment is not available for operation, then substitute equipment with similar/ higher specification shall be provided as a replacement by the Contractor at no extra charge within 45 days from the time & date, the offered equipment is inoperative / broken down.
- 29.2 At any stage, if the contractor at their discretion intends to substitute any of their equipment, the same would be allowed by SMPK subject to suitability.

- 29.3 In case of any substitution of dredgers and equipments, no payment towards mobilization or demobilization of dredger/equipment shall be paid.

### **30.0 THIRD PARTY AUDIT**

- 30.1 SMPK shall appoint a Consultant (Independent Third Party) for auditing the maintenance dredging work during the entire contract period.
- 30.2 For the purpose of auditing the maintenance dredging work, a representative of the Consultant shall remain on board each of the dredgers deployed 24 hours a day during the entire contract period.
- 30.3 The Consultant's representative on board each dredger shall oversee dredging operations (conventional as well as side cast dredging), shall have access to all dredging operation records, survey charts etc. The Consultant's Resident Engineer and Dy. Resident Engineer shall have access to all dredging machineries for improvement of dredging efficiency of the dredger as and when necessary.
- 30.4 The Consultant shall report to the General Manager, Marine, who will be the Engineer In-Charge of the Third Party auditing work.

### **31.0 Compensation/ cutback for excess/lesser siltation.**

- 31.1 Excess / lower siltation in the channel is deemed to have taken place if the total volume of dredged materials per annum exceeds / falls below norm set as per clause 25.2. In case of excess siltation above the norm, SMPK shall pay the contractor at the rate of the 'equivalent per cbm value' of the contract for each extra cbm above norm.
- 31.2 Compensation for excess siltation shall be effected annually and shall be adjusted against last payment for the year.
- 31.3 The compensation / cut back for excess & lesser siltation shall be applicable for Haldia Reach, Haldia Anchorage, Jellingham, Lower Jellingham Crossing, Upper Eden & Lower Eden.
- 31.4 The annual compensation shall be given under the following condition:
- If base level depths are maintained for at least 10 months (continuously or otherwise) subject to the further condition that depth does not fall by more than 0.1 Metre from base levels during the balance period.
- 31.5 The maximum compensation that shall be given will be capped at 25% of that particular annual value as arrived as per Clause-32.0.
- 31.6 The volume calculation shall be done as per the formula in Clause- 47.

## 32.0 PAYMENT TERMS

- 32.1 For the payment, the annual value of the particular year would be arrived at by multiplying the quantity as per norm for that particular year by per cubic meter rate as arrived as stipulated in 'Price Bid Format' (BOQ). Similarly, monthly value would be  $1/12^{\text{th}}$  of annual value of that particular year.
- 32.2 The contractor will be paid minimum of the value of  $1/12^{\text{th}}$  of annual quantity of the respective year as indicated in the Price Bid Format or the actual quantity dredged **through normal disposal at disposal site as well as rain-bowing / side-casting** during the month as calculated on the basis of cbm rate after applying disincentive / penalty for maintaining the depth with reference to the targets. **The maximum payable quantity dredged through rain-bowing / side casting shall not exceed 0.10 Million Cubic Metres per month subject to maximum of 1.0 Million Cubic Metres per annum.**
- 32.3 The final compensation for the siltation level shall be adjusted against the payout for the month ending each year. Contractor shall submit the correct dredging bills, complete in all respects, at the end of every Calendar month and SMPK shall make payment within 45 days of receipt of completed / corrected bills and necessary clarification, if any. The bill should include all relevant documents/invoices including Daily Dredging Reports duly certified by the Master of the dredger and SMPK's authorised representative on board.
- 32.4 In the event of dredging any area between Lower Jellingham Crossing and Upper Eden payment would be made at the unit rate as applicable for Upper Eden. Further, in case dredging is required to be done in any area other than Haldia Channel, payment would be decided based on the average daily (last 7 days working 24 X 7) revenue earned by the respective dredger in Haldia channel with adjustment of fuel cost if the dredger is unable to work 24 hours in a day.
- 32.5 The dredging charge quoted need not include any port dues, pilotage, berth hire or mooring charge etc. and the same shall be to the account of SMPK. However, Tug hire or other services rendered on occasions other than those required for normal berthing purposes etc. shall be payable by the Contractor as per the Trustees' Schedule of Charges.
- 32.6 The payment in Indian Rupees shall be released to the designated Bank Account of the contractor maintained in any scheduled bank in India.

The contractor shall be required to submit Tax Invoice complying with the requirement of GST law, time being in force along with all relevant details and workings as per advice of the Engineer of the Contract. If required by SMP, Kolkata, the contractor would be obliged to submit documentary evidence of remittance of GST and other taxes claimed through the Invoice, to Govt.

Tax Deduction at Source (TDS) as per lawtime being in force in India (both on account of Income Tax and GST), shall be made by SMP, Kolkata from the payment released to the contractor.

### **33.0 Removal of equipments.**

No equipment consigned for the work shall be removed from the site without approval from the engineer which shall not be unreasonably withheld.

### **34.0 INSURANCE**

All dredgers and ancillary crafts mobilized by the contractor for the purpose of execution of this contract must be suitably insured. Whereas, vessels registered under MS Act must be insured with a member of the International Group of P & I Club, vessels registered under I.V. Act shall be insured with any reputed Indian Insurance company in the following manner:

- i) The hull, machinery and 3<sup>rd</sup> party liability.
- ii) Total loss of the vessel.
- iii) Total coverage for wreck removal in case the vessel is wrecked.

All persons deployed by the contractor on board the vessels and ashore shall be insured by the contractor at his cost and documentary evidence should be provided before commencement of work. SMPK shall not be responsible in any manner for any accident, injury or death to the personnel engaged by the Contractor during execution of the contract on board or ashore.

### **35.0 RESPONSIBILITIES OF SYAMA PRASAD MOOKERJEE PORT, KOLKATA (SMPK).**

- 35.1 SMPK shall provide suitable berth facilities at HDC / KDS, subject to availability, for maintenance / repair of dredger and other crafts deployed by the Contractor as well as permit movement of Contractor's mobile crane inside the dock as and when required, free of charge.
- 35.2 SMPK shall provide fresh water to the dredger at dredging area / berth / waiting area, as practicable, on chargeable basis. However, this cannot be considered as a binding obligation on the part of SMPK.
- 35.3 SMPK shall permit use of available landing jetties, free of cost for operating routine boat services to the dredger by the Contractor.
- 35.4 SMPK shall provide dock entry permit to Contractor's personnel, vehicles etc. on chargeable basis.
- 35.5 SMPK will post one representative who shall act as Pilot under the provision of Indian Ports Act 1908 at their cost on board the dredger for Pilotage



operation. The said representative will also read and record dredging reports, operating time, idle time, breakdown of the dredger etc. jointly with Contractor's representative. These dredging reports along with Neap Survey reports will form the basis of payment under the Contract, which would be required to be submitted in triplicate to the Engineer every week.

### **36.0 SALVAGE OF PLANT, EQUIPMENT, VESSEL, CRAFT ETC**

The contractor shall forthwith and with due dispatch raise and remove any plant floating or otherwise or any boat or vessel or craft or equipment belonging to them or to any sub-contractor employed by them which may sink in the course of the execution of works within the limits of site or elsewhere within the docks or in Hugli river within port limits and until the same shall be raised and removed, the Contractor shall set all such buoys and display at night such lights and do all such things for safety of navigation as may be required by the Trustees. In the event of the Contractor not carrying out the obligations imposed on him by this clause, the Trustees may, through some other agency, raise and remove such sunken plant, boat, vessel or craft and buoy and light the same and the Contractor shall reimburse to the Trustees all costs in connection therewith, which the Trustees shall be at liberty to recover as debt due.

### **37.0 ARTICLES OF VALUE:**

All articles of value or antiquity and structures and other remains of geological or archaeological interest found shall be deemed to be the property of the Trustees. The Contractor shall take every precaution to prevent damage to any such article and shall immediately report to the Engineer of the Contract or his representative in writing of such discovery and carry out, at the Trustees' expenses, Engineer's order as to their retrieval.

### **38.0 APPLICATION OF ACTS AND PORT RULES**

The dredger shall at all time work under the provision of the Indian Port's Act 1908, The Major Port Trusts Act 1963, relevant Port Rules & any new Act enacted by Government.

### **39.0 ENGINEER'S AUTHORITY TO DELEGATE**

The Engineer may from time to time delegate to the Engineer's Representative any of the duties and authorities vested in the Engineer and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing. Any communication given by the Engineer's Representative to the Contractor in accordance with such delegation shall have the same effect provided that:

- (a) any failure of the Engineer's Representative to disapprove any work, materials or Plant shall not prejudice the authority of the Engineer to disapprove such work, materials or Plant and to give instructions for the rectification thereof;

- (b) if the Contractor questions any communication of the Engineer's Representative he may refer the matter to the Engineer who shall confirm, reverse or vary the contents of such communication.

#### **40.0 DEPLOYMENT OF STAFF BY THE ENGINEER**

The Engineer shall deploy any number of persons from his firm or appoint any number of persons in carrying out duties. Such persons have the authority to carry out their duties, acceptance of materials, verifications of drawings, checking the surveys, quantities of dredging, checking the locations of disposals of dredged material, plant or workmanship as being in accordance with the Contract, and any instructions given by any of them to the Contractor for those purposes shall be deemed to have been given by the Engineer's Representative on behalf of the Engineer of the Contract.

#### **41.0 CONTRACTOR'S WORKING AREA**

The Contractor shall be allowed working area as necessary, subject to availability on payment of applicable charges.

#### **42.0 TEMPORARY WORKS, OFFICE, JETTY, ETC**

- 42.1 The Contractor shall submit to the Engineer for his approval, drawings and proposals for any temporary works such as batching plant, storage yard, office, store, false work and temporary platforms, pre-casting yard, workshop, etc. which he intend to construct for the execution of the contract and no such work shall be constructed before obtaining the written approval of the Engineer.
- 42.2 The Contractor shall obtain permission for any temporary work and would ensure that during execution of works the statutory requirements of the concerned authorities such as Syama Prasad Mookerjee Port, Kolkata, Police, etc. would be complied with.

#### **43.0 INTERPRETATION OF CONTRACT DOCUMENTS, DISPUTES & ARBITRATION**

- 43.1 In all disputes, matters, claim demands or questions arising out of or connected with the interpretation of the contract including the meaning of Specifications, Drawings & Instruction or as to the quality of workmanship or as to the materials used in the work or the execution of the work whether during the progress of the works or after the completion and whether before or after the determination, abandonment or breach of the contract, the decision of the Engineer shall be final binding on all parties to the contract and shall forthwith be given effect to by the Contractor.
- 43.2 If the Contractor is dissatisfied with any such decision of the Engineer / his representative, he shall within 15 days after receiving notice of such award / decision, requires that the matter shall be referred to Chairman, who shall thereupon examine the dredging related dispute by a Committee consisting of FA&CAO, Director, Marine Department & Chief Engineer under his chairmanship and submit its recommendation to the Board for taking a view on the dispute.
- 43.3 If there is still no settlement as mentioned at Clauses - 43.1 & 43.2, the dispute or differences or claims as the case may be, shall be finally settled by binding

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

- 43.4 Notwithstanding anything contained herein above, Employer also reserve the right to invoke arbitration in all disputes, matters, claim demands or questions arising out of or connected with the interpretation of the contract including the meaning of Specifications, Drawings & Instruction or as to the quality of workmanship or as to the materials used in the work or the execution of the work whether during the progress of the works or after the completion and whether before or after the determination, abandonment or breach of the contract etc.
- 43.5 The place/ jurisdiction of arbitration shall be in Kolkata, West Bengal, India.
- 43.6 The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid equally by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the successful Party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by the Party.
- 43.7 Pending the submission of and / or decision on a dispute, difference or claim or until the arbitral award is published, the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.
- 43.8 The request for arbitration, the answer to the request, the terms of reference, any written submission, any order and ruling shall be in English language and if oral hearings take place, English shall be the language to be used in the hearing.
- 43.9 Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.
- 43.10 In case the contract is awarded to a Central Public Sector Enterprises (CPSE), commercial disputes, if any, may be settled through Permanent Machinery of Arbitrators (PMA) as per relevant Government of India guidelines.

#### **44.0 INFORMATION REQUIRED**

A Technical description of the dredger to be submitted as per the format below and to be enclosed in Part-I (Technical and Commercial aspects) of the offer. The contractor will have to submit copies of all statutory certificates.

Description of equipments to be used

Template for filling details of equipments		
Sl. No.	PARTICULARS	
1	NAME OF THE EQUIPMENT	
2	OWNERS	
3	FLAG	
4	BUILDER	
5	YEAR OF BUILD	
6	HOPPER CAPACITY	
7	OFFICIAL NO.	
8	REGISTERING AUTHORITY	
9	GRT	
10	LOA	
11	BEAM	
12	DEPTH	
13	DRAFT (BOTH LIGHT & LOADED)	
14	MAXIMUM DREDGING DEPTH	
15	MAIN ENGINE (NOS, MAKE, BHP, RPM ETC. EACH)	
16	ENDURANCE (FULL POWER)	
17	DREDGE PUMP ENGINE (NOS, MAKE, BHP, RPM ETC. EACH)	
18	GENERATOR ENGINE (NOS, MAKE, BHP ETC. EACH)	
19	NAVIGATIONAL EQUIPMENT	
20	TYPE OF DRAGHEAD, WEIGHT OF EACH DRAGHEAD INCLUDING NUMBER OF DRAGHEADS AVAILABLE, JET	

	PRESSURE OF EACH DRAGHEAD& TYPE OF TEETH FITTED ON THE DRAGHEAD. (Only for dredger)	
21	DATE OF LAST DRY-DOCKING	
22	NEXT DRY-DOCKING DUE ON (TO MAINTAIN VALIDITY OF CLASS & STATUTORY CERTIFICATES)	
23	DREDGE PUMP (MAKE, CAPACITY, DISCHARGE RATE, TIME TO FILL UP HOPPER ETC.) (Only for dredger)	
24	CREW (INCLUDING MASTER)	
25	DRAFT LOAD MONITOR (DLM) - MAKE, CALIBRATION CERTIFICATE INDICATING AUTHORITY & DATE OF CALIBRATION.	
26	PARTICULARS OF BOW THRUSTER, IF FITTED WITH	
27	SPEED IN LOADED CONDITION	
28	NUMBER OF RUDDER	
29	NUMBER OF PROPELLER	

**Note:** Separate sheet to be filled up for each offered equipment.

#### **45.0 TERMINATION OF CONTRACT.**

45.1 Without being liable for any compensation to the Contractor, the Trustees may, in their absolute discretion, terminate the contract and enter upon the site and works and expel the Contractor there from after giving him a minimum one month's notice in writing, due to occurrence of any of the following reasons and decision of the Trustees in this respect, as communicated by the Engineer shall be final and conclusive:

- i. The Contractor has abandoned the contract.
- ii. The Contractor has failed to commence the works or has without any lawful excuse under these conditions, has kept the work suspended for at least 15 days despite receiving the Engineer's or his Representative's written notice to proceed with the work.
- iii. The Contractor is not executing the work in accordance with the contract or is persistently or flagrantly neglecting to carry out his obligations under the contract.
- iv. Any bribe, commission, gift or advantage is given, promised or offered by or on behalf of the Contractor to any officer, servant or representative of the Trustees or to any person on his or their behalf in relation to the obtaining or to the execution of the contract.

- v. The Contractor is adjudged insolvent or enters into composition with his creditors or being a company goes into liquidation either compulsory or voluntary.
- vi. If the Contractor fails to maintain the base depth as specified in Clause 25.0 for two consecutive months.
- vii. The depths either at Jellingham including Haldia Anchorage and Lower Jellingham Crossing and / or Lower Eden has reduced by 0.3 m or more from the 'Base Level' as specified in Clause 25.0.

#### **45.2 Risk Purchase**

In all such cases of Termination of work, the Trustees shall have the right to complete the work through any other agency at the risk and cost of the defaulting Contractor. In such cases, the defaulting Contractor shall be debited any sum or sums that may be spent in completing the work through the new agency beyond the amount that would have been due to the Contractor, had he been duly completed the whole of the work in accordance with the contract.

#### **46.0 DREDGER'S AND EQUIPMENTS ENCUMBRANCES ON CONTRACTOR**

The contractor shall submit an undertaking that the contractual dredgers and ancillary equipment are free from all encumbrances and lien.

#### **47.0 Measurement of volume of dredged materials.**

The contractor shall submit certificate pertaining to calibration of hopper (in dredger or barge as applicable) and load recorder by an international reputed and approved agency prior to the commencement of work. The contractor shall agree to recalibration by internationally reputed and approved agencies as required by the engineer.

**47.1** Average value of the bulk densities of samples collected will be deemed to 1790 kg/cbm (i.e. 1.79 ton /cbm).

Density of water is assumed to be 1005 kg/cbm (i.e. 1.005 ton / cbm).

Volume of dredged material shall be computed using the following formula for payment:

$$V_s = (W_h - V_h \times Y_w) / (Y - Y_w)$$

Where

W<sub>h</sub> - Nominal hopper load as per load recorder.

V<sub>h</sub> - Volume of hopper as per hopper calibration expressed in cubic meter

V<sub>s</sub> - Volume of dredged materials

Y<sub>w</sub> - Bulk density of water = 1005 kg/cbm (i.e 1.005 ton / cbm).

Y - Average bulk density of dredged materials = 1790 kg/cbm (i.e 1.79 ton /cbm).

**Note:** Before submission of bids, the bidders, if felt necessary, may collect river bed materials from the proposed dredging area for ascertaining the variation of

bulk density of the bed materials to be dredged. However, the value of bulk density of dredged materials to be applied in the given formula for calculation of volume of dredging will remain fixed at 1.79 Ton /Cum. No excuses on this issue will be entertained after submission of bids.

**47.2** Measurement of payable quantity dredged through side-casting / rain-bowing is to be done as per the following formula:

$$V_s = \sum_{i=1}^{i=T} \frac{V_{mi} (Y_{mi} - Y_w)}{(Y - Y_w)}, \text{ Where}$$

$V_{mi}$  - Volume of mixture of dredged materials and water discharged from the nozzle at time  $t_i$  as per load recorder expressed in cubic meter,

$Y_{mi}$  - Density of mixture of dredged materials and water discharged from the nozzle at time  $t_i$  as per load recorder expressed in kg/cbm,

$V_s$  - Cumulative volume of dredged materials in cbm during the rain- bowing / side-casting period of T secs ,

$Y_w$  - Bulk density of water = 1005 kg/cbm,

$Y$  - Average bulk density of dredged materials = 1790 kg/cbm ,

$T$ - Total rain bowing time in sec.

Note: Suitable measuring gadget shall be fitted at the outlet pipe for taking measurement. Specific gravity of the dredged materials is to be considered as 2.65 wherever required.

In the event of non-functioning of the measuring gadget, SMPK will consider the production of 1875 M<sup>3</sup> per hour for payment purpose.

## **48.0 LAW OF THE LAND**

All relevant rules and regulations and laws regarding Trade Union, Labour, Marine and Pollution Control have to be complied by the contractor at their own cost. SMPK shall be at liberty to deduct appropriate amount from the pending bills of the contractor in case the contractor fails to comply with the relevant rules and regulations and the consequential damages are to be borne by SMPK.

## **49.0 COMPLIANCE OF LABOUR ACT**

The contractor should comply with the contract labour (Regulation and abolition) Act 1970, including compliance of Employees State Insurance Act (if applicable), workmen compensation, Minimum Wage Act 1948 and Employers (contractor being employer) Insurance and any other Laws in force as on date.

## **50.0 OFFICE AND LIAISON OFFICER**

50.1 The contractor shall establish an office at Kolkata/Haldia with telephone, Fax and

e-mail facilities.

- 50.2 A Liaison Officer should be deployed by the Contractor for interacting /communicating between SMPK, the vessel and other concerned officials at Kolkata. Such liaison officer shall have Mobile Phone with residential telephone facility. He should be a person having experience in the field of marine operation.

## **51.0 Force Majeure**

51.1 In the event of either party being rendered unable by 'force majeure' to perform any obligation required to be performed by them under the contract, the relative obligation of the party affected by such 'force majeure', shall upon notification to the other party, be suspended for the period during which 'force majeure' event lasts. The cost and loss sustained by either party shall be borne by respective parties.

51.2 The term 'Force Majeure' as employed shall mean acts of God, earthquake, war, revolt, riot, fire, strike (excluding that of Contractor's Suppliers or Sub-Contractor's Employees) and hurricane. Time of performance shall be extended by the period of delay, which is directly caused by the 'force majeure'. Upon the occurrence of such cause and upon its termination the party alleging that it has been rendered unable, as aforesaid, shall notify the other party in writing immediately but not later than 48 (Forty eight) hours of the alleged beginning and ending thereof, giving full particulars and satisfactory evidence in supports of its claim.

51.3 Time for performance of the relative obligation suspended by the 'force majeure' shall stand extended by the period for which such cause lasts.

## **52.0 Accommodation for Engineer's representatives.**

The contractor shall provide suitable accommodations at least for two representatives of the Engineer on each of the dredgers.

## **53.0 PRICE PREFERENCE**

Price preference shall be allowed to Indian companies including Dredging Corporation of India (DCI) as per relevant prevailing guidelines of the Government of India. The prevailing guidelines are attached (**Attachment-C**).

## **54.0 Priority of Documents**



The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a) The contract Agreement (completed)-**Annexure-IV**.
- b) The Letter of Acceptance / Firm work order.
- c) The priced 'Bill of Quantities'.
- d) Bid Clarification,
- e) The Technical Specification, Special conditions of contract.
- f) The General conditions of contract.
- g) The Drawings, Annexure and Appendix.
- h) All post bid correspondence and any other document forming part of contract, if any ambiguity or discrepancy is found in the documents, the Engineer shall issue any necessary clarification or instruction.

#### 55.0 Bill of Quantities (BOQ)

Sl. No.	Work	Lump sum price quoted excluding GST.	Remarks
1.	Maintenance dredging at Haldia Anchorage, Jellingham & Lower Jellingham Crossing and as stipulated in the scope of the work for a period of five years from the date of commencement of the work.	Rs.....	Note-1: Amount to be quoted for five years considering the total quantity of 21.0 Million Cubic Meter to be dredged during the period of 5 years @ 4.2 Million Cubic Meter per annum.  Note- 2: Unit rate (Rate per Cubic Meter) to be calculated by dividing the lump sum amount quoted by 21.0 Million Cubic Meter.
2.	Maintenance dredging at Upper Eden Bar as stipulated in the scope of the work for a period of five years from the date of commencement of the work.	Rs.....	Note-1: Amount to be quoted for five years considering the total quantity of 21.5 Million Cubic Meter to be dredged during the period of 5 years @ 4.3 Million Cubic Meter per annum.  Note- 2: Unit rate (Rate per Cubic Meter) to be calculated by dividing the lump sum amount quoted by 21.5 Million Cubic

			Meter.
3.	Maintenance dredging at Lower Eden Bar as stipulated in the scope of the work for a period of five years from the date of commencement of the work.	Rs.....	<p>Note-1: Amount to be quoted for five years considering the total quantity of 4.0 Million Cubic Meter to be dredged during the period of 5 years @ 0.8 Million Cubic Meter per annum.</p> <p>Note- 2: Unit rate (Rate per Cubic Meter) to be calculated by dividing the lump sum amount quoted by 4.0 Million Cubic Meter.</p>
4.	Maintenance dredging at Haldia Reach as stipulated in the scope of the work for a period of five years from the date of commencement of the work.	Rs.....	<p>Note-1: Amount to be quoted for five years considering the total quantity of 7.6 Million Cubic Meter to be dredged during the period of 5 years as follows:</p> <p>1<sup>st</sup> Year: 3.6 Million Cubic Meters. Thereafter, 1.0 Million Cubic Meter per annum.</p> <p>Note- 2: Unit rate (Rate per Cubic Meter) to be calculated by dividing the lump sum amount quoted by 7.6 Million Cubic Meter.</p>
Total LS price quoted against item- 1, 2, 3 & 4 excluding GST.		Rs.....	GST as applicable would be applicable additionally.

## Annexure-I

### INTEGRITY PACT

Between  
Syama Prasad Mookerjee Port, Kolkata (SMPK) hereinafter referred to as “The  
Principal/ Employer”

And  
.....hereinafter referred to as “The  
Bidder/ Contractor”.

#### Preamble

The principal intends to award, under laid down organizational procedures, contract/s for.....The Principal values full compliances with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/ or contractor(s).

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM) appointed by the principal, will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

#### NOW, THEREFORE

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence / prejudiced dealings prior to, during and subsequent to currency of the contract to be entered into with a view to :-

Enabling the PRINCIPAL / EMPLOYER to get the contractual work executed and / or to obtain / dispose the desired said stores / equipment at a competitive price in conformity with the defined specifications / scope of work by avoiding the high cost and the distortionary impact of corruption on such work / procurement /disposal and Enabling BIDDERS /CONTRACTORS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will abstain from bribing and other corrupt practices and the PRINCIPAL/EMPLOYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

#### Section-1:Commitments of the Principal/employer.

- (1) The Principal commits itself to take measures necessary to prevent corruption and to observe the following principles:-

- a. No employee of the Principal, personally or through family members, will, in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any materials or immaterial benefit which the person is not legally entitled to.
  - b. The Principal will, during the tender process, treat all Bidder(s) with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code (IPC)/ Prevention of Corruption (PC) Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

## **Section-2: Commitments of the Bidder(s)/Contractor(s)**

- (1) The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
  - a. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - b. The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non- submission of bid or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - c. The Bidder(s)/Contractor (s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/Contractor(s) will not use improperly, for purpose of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details including information contained or transmitted electronically.
  - d. The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representative in India, if any. Similarly the Bidder(s)/Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the **"Guidelines on Indian Agents of Foreign Suppliers"** shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines, all the payments made to the Indian

Agent/representative have to be in Indian Rupees only. Copy of the Guidelines on Indian Agents of foreign Suppliers is annexed and marked as **Annexure-P**.

- e. The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section-3: Disqualification from tender process and exclusion from future contracts.**

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as considered appropriate.

### **Section- 4: Compensation for Damages.**

- (1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand the recover the damages equivalent to Earnest Money Deposit / Bid Security.
- (2) If the Principal has terminated the contract according to Section 3 or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the contract value or the amount equivalent to Performance Bank Guarantee.

### **Section -5: Previous transgression.**

- (1) The Bidder declares that no previous transgressions occurred in the last 3 years from the date of signing the Integrity Pact with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Undertakings /Enterprise in India, Major Ports, / Govt. Departments of India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as considered appropriate.

### **Section- 6: Equal treatment of all Bidders / Contractors/ Subcontractors.**

- (1) The Bidder(s)/ Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and subcontractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section-7: Other Legal actions violating Bidder(s)/Contractor(s)/ Sub contractor(s).**

The actions stipulated in this Integrity pact are without prejudice to any other legal action that may follow in accordance with provisions of the extant law in force relating to any civil or criminal proceedings.

**Section-8: Role of Independent External Monitor (IEM).**

- (a) The task of the monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- (b) The monitors shall not be subject to instructions by the representatives of the parties and shall perform their functions neutrally and independently.
- (c) Both the parties accept that the Monitors have the right to access all the documents relating to the contract.
- (d) As soon as the Monitor notices, or has reason to believe, a violation of this pact, he will so inform the authority designated by the Principal and the Chief Vigilance Officer of Syama Prasad Mookerjee Port, Kolkata.
- (e) The BIDDER / CONTRACTOR(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the PRINCIPAL including that provided by the BIDDER / CONTRACTOR. The demonstration of a valid interest, unrestricted and unconditional access to his contract documentation, if any. The same is applicable to Sub-contractors. The Monitor shall be under contractual obligation to treat the information and documents of the Bidder / Contractor / Subcontractor(s) with confidentiality.
- (f) The Principal / Employer will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor, the option to participate in such meetings.
- (g) The Monitor will submit a written report to the designated Authority of Principal / Employer / Chief Vigilance Officer of Syama Prasad Mookerjee Port, Kolkata within 8 to 10 weeks from the date of reference or intimation to him by the Principal / Employer / Bidder / Contractor and should the occasion arise, submit proposals for correcting problematic situation. BIDDER / CONTRACTOR can approach the Independent External Monitor (s) appointed for the purposes of this Pact.
- (h) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or to take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (i) If the Monitor has reported to the Principal substantiated suspicion of an offence under the relevant IPC/PCA and the Principal / Employer has not, within reasonable time, taken visible action to proceed against such offence or reported to the Chief

Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

- (j) The word 'Monitor' would include both singular and plural.

#### **Section-9: Facilitation of Investigation:**

In case of any allegation or violation of any provisions of this Pact or payment of commission, the PRINCIPAL / EMPLOYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER / CONTRACTOR shall provide necessary information and documents in **English** and shall extend all possible help for the purpose of such examination.

#### **Section-10: Pact Duration:**

The pact begins with when both parties have legally signed it and will extend up to 2 years or the complete execution of the contract including warranty period whichever is later. In case bidder / contractor is unsuccessful this Integrity Pact shall expire after 6 months from the date of signing of the contract.

If any claim is made / lodged during this time, the same shall be binding and continue to the valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chairman of SMPK.

#### **Section-11: Other provisions:**

- (1) This agreement is subject to Indian law. Place of performance and jurisdiction is the Registered Office of the Principal in Kolkata.
- (2) Changes and supplements as well as termination notices need to be made in writing in English.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners of consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the reminder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

\_\_\_\_\_  
For & on behalf of the Principal)  
(Office Seal)

\_\_\_\_\_  
(For & on behalf of Bidder/Contractor)  
(Office Seal)

Place.....

Date.....

Witness 1:

(Name & Address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness 2:

(Name & Address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Annexure-P

## **GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS**

- 1.1 There shall be compulsory registration of Indian agents of foreign suppliers for all Tender. An agent who is not registered with SMPK shall apply for registration in the prescribed Application - Form.
  - 1.2 Registered agents will file an authenticated Photostat copy (duly attested by a Notary Public) / Original certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission / remuneration / salary / retainer ship being paid by the principal to the agent before the placement of order by SMPK.
  - 1.3 Wherever the Indian representatives have communicated on behalf of their principals and foreign parties have stated that they are not paying any commission to the Indian agents and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order.
- 2.0 DISCLOSURE OF PARTICULARS OF AGENTS / REPRESENTATIVES IN INDIA. IF ANY.
- 2.1 **Bidders of Foreign nationality shall furnish the following details in their offer:**
- 2.1.1 The name and address of the agents / representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent / representative be a foreign Company, it is to be confirmed whether it is real substantial Company and details of the same shall be furnished.
  - 2.1.2 The amount of commission / remuneration included in the quoted price(s) for such agents / representatives in India.
  - 2.1.3 Confirmation of the Bidder that the commission / remuneration if any, payable to his agents / representatives in India, is to be paid by SMPK in Indian Rupees only.
- 2.2 **Bidders of Indian Nationality shall furnish the following details in their offers:**
- 2.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e. whether manufacturer or agent of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents / representatives.
  - 2.2.2 The amount of commission / remuneration included in the price (s) quoted by the bidder for himself.
  - 2.2.3 Confirmation of the foreign principals of the Bidder that the commission / remuneration, if any, reserved for the Bidder in the quoted price (s), is paid by SMPK in India in equivalent Indian Rupees.
  - 2.2.4 In either case, the event of contract materializing, the terms of payment will provide for payment of the commission / remuneration, if any payable to the agents / representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
  - 2.2.5 Failure to furnish correct and detailed information as called for in paragraph - 2.0 above will render the concerned tender liable for rejection or in the event of a contract materializing, the same liable to



termination by SMPK. Besides this there would be a penalty of banning business dealings with SMPK or damage or payment of a named sum.

Annexure-II

### **BID SECURITY DECLARATION**

(To be filled up and uploaded online after seal and signature )

The General Manager, Marine  
Haldia Dock Complex  
SMP, Kolkata

Ref: TENDER No:

Sir,

I / We, ..... (Name of the bidder) understand that according to your conditions, bids must be supported by a Bid-Security Declaration.

I/We do hereby declare that I/We shall not withdraw or modify bids during period of validity etc., in case, any withdrawn / modification of the bids is done during validity period, I/We will be suspended for three years from participation of any tender with entity that invited the bids.

Name and Signature of Tenderer with official seal

## Annexure-III

### PROFORMA OF BANK GUARANTEE (PERFORMANCE BOND)

To  
The Board of Trustees  
For the Syama Prasad Mookerjee Port  
Haldia Dock Complex  
BANK GUARANTEE NO.....DATE.....  
Name of Issuing Bank.....  
Name of Branch.....  
Address.....

In consideration of the Board of Trustees of the Port of Kolkata, a Body Corporate, duly constituted under the Major Port Trust Act, 1963 (Act 38 of 1963), having agreed to exempt M/s....., a Proprietary / Partnership/Limited/Registered Company, having its Registered office at .....(hereinafter referred to as "The Contractor") from cash payment of Security Deposit / Payment of Security Deposit through deduction from the Contractors' bills under the terms and conditions of a contract made between the Trustees and the Contractor for.....(write the name of the work as per Work Order) in terms of the Work Order No.....dated .....(hereinafter referred to as 'the said Contract'), for the due fulfilment by the contractor of all the terms and conditions contained in the said contract, on submission of a Bank Guarantee for Rs..... (Rupees.....), we..... Bank.....Branch, Kolkata...../Haldia, do, on the advice of the contractor, hereby undertake to indemnify and keep indemnified the Trustees to the extent of the said sum of Rs..... (Rupees.....). We, ..... Bank.....Branch, Kolkata ...../Haldia, further agree that if a written demand is made by the Trustees through any of its officials for honouring the Bank Guarantee constituted by these presents, We, ... Bank.....Branch, Kolkata ...../Haldia, shall have no right to decline to cash the same for any reason whatsoever and shall cash the same and pay the sum so demanded to the Trustees within a week from

the date of such demand by an A/c Payee Banker's Cheque drawn in favour of "Syama Prasad Mookerjee Port, Kolkata" without any demur. Even if there be any dispute between the contractor and the Trustees, this would be no ground for us.....(Name of Bank), .....Branch, Kolkata ...../Haldia, to decline to honour the Bank Guarantee in the manner aforesaid. The very fact that We..... Bank.....Branch, Kolkata ...../Haldia, decline or fail or neglect to honour the Bank Guarantee in the manner aforesaid shall constitute sufficient reason for the Trustees to enforce the Bank Guarantee unconditionally without any reference, whatsoever, to the contractor.

2. We..... Bank.....Branch, further agree that a mere demand by the Trustees at any time and in the manner aforesaid is sufficient for us..... Bank.....Branch, to pay the amount covered by this Bank Guarantee in full and in the manner aforesaid and within the time aforesaid without reference to the contractor and no protest by the contractor, made either directly or indirectly or through Court, can be valid ground for us.....Bank.....Branch, to decline or fail or neglect to make payment to the Trustees in the manner and within the time aforesaid.

3. We .....Bank.....Branch, further agree that the Bank Guarantee herein contained shall remain in full force and effect, during the period that is taken for the due performance of the said contract by the contractor and that it shall continue to be enforceable till all the dues of the Trustees under and/or by virtue of the terms and conditions of the said contract

have been fully paid and its claim satisfied and/ or discharged in full and/or till the Trustees certify that the terms and conditions of the said contract have been fully and properly observed/fulfilled by the contractor and accordingly, the Trustees have discharged the Bank Guarantee, subject however, that this guarantee shall remain valid upto and inclusive of .....days of.....20--- and subject also to the provision that the Trustees shall have no right to demand payment against this guarantee after the expiry of 6 (six) calendar months from the expiry of the aforesaid validity period up to.....or any extension thereof made by us.....Bank.....Branch, in further extending the said validity period of this Bank Guarantee on Non-Judicial Stamp paper of appropriate value, as required/determined by the Trustees, only on a written request by the Trustees to the contractor for such extension of validity of this Bank Guarantee.

4. We.....Bank.....Branch, further agree that, without our consent and without affecting in any manner our obligations hereunder, the Trustees shall have the fullest liberty to vary from time to time any of the terms and conditions of the said contract to extend the time for full performance of the said contract including fulfilling all obligations under the said contract or to extend the time for full performance of the said contract including fulfilling all obligations under the said contract by the contractor or to postpone for any time or from time to time any of the powers exercisable by the Trustees against the contractor and to forebear or enforce any of terms and conditions relating to the said contract and we..... Bank.....Branch shall not be relieved from our liability by reason of any such variation or extension being granted to the contractor or for any fore-bearance, act or commission on the part of the Trustees or any indulgence by the Trustees to the contractor or by any such matter of thing of whatsoever nature, which under the law relating to sureties would, but for this provision have effect of so relieving us .....Bank .....Branch.

5. We,..... ....Bank.  
.....Branch, lastly undertake not to revoke this Bank Guarantee  
during its currency except with the previous consent of the Trustees in writing.

SIGNATURE.....

NAME.....

DESIGNATION.....

(Only constituted attorney for and on behalf of)

BANK.....

BRANCH..... (OFFICIAL SEAL OF THE BANK)

#### Annexure-IV

#### FORM OF AGREEMENT

THIS AGREEMENT made this.....day of  
.....19.....between the Board  
of Trustees for the Port of Calcutta, a body corporate constituted by the Major Port  
Trusts Act, 1963(hereinafter called "Trustees" which expression shall unless excluded by  
or repugnant to the context be deemed to include their successors in office) of the one  
part and.....(hereinafter called "the Contractor, which  
expression shall unless excluded by or repugnant to the context be deemed to include its  
heirs, executors, administrators, representatives and assignees or successors in office) of  
the other part. WHEREAS the Trustees are desirous that certain Works should be  
executed/constructed,

viz..... and have  
accepted a Tender/offer by the Contractor for the construction, completion and  
maintenance of such works NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement words and expressions shall have the same meaning as are  
respectively assigned to them in General Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and be read and construed as  
part of this Agreement, viz

- (a) The said Tender/offer & the acceptance of tender/offer.
- (b) The Drawings.
- (c) The General Conditions of Contract.
- (d) Special Conditions of Contract.
- (e) The Conditions of Tender.
- (f) The Specification.
- (g) The Bill of Quantities.
- (h) The Trustees' Schedule of Charge and Prices (if any).
- (i) All correspondence, by which the contract is added, amended, varied or modified in  
any way by mutual consent.

1. In consideration of the payments to be made by the Trustees to the Contractor  
as hereinafter mentioned, the Contractor hereby covenant with the Trustees to execute,  
construct, complete and maintain the work in conformity in all respects with the provisions  
of the Contract.

4. The Trustees hereby covenants to pay to the Contractor in consideration of such execution, construction, completion and maintenance of the works the Contract Prices at the times and in the manner prescribed by the Contract.

In WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed for have hereunto set their respective hands and seals) the day and year first above written.

The Seal of

.....  
.....was hereunto affixed in the presence of :

Name\_\_\_\_\_

Address\_\_\_\_\_

\_\_\_\_\_

Or

SIGNED SEALED AND DELIVERED

by the said\_\_\_\_\_

in the presence of :

Name:\_\_\_\_\_

Address:\_\_\_\_\_

The Common Seal of the Trustees was hereunto affixed in the presence of:

Name:\_\_\_\_\_

Address:\_\_\_\_\_

\_\_\_\_\_

Annexure-V

**FORM OF TENDER**

To  
The General Manager, Marine,  
Syama Prasad Mookerjee Port, Kolkata,  
15 Strand Road,  
Kolkata-700 001.

Dear Sir,

We, M/s.....having read and fully understood the Specifications, General & Special Conditions of Contract and Conditions of Tender, hereby tender for maintenance dredging in Haldia Channel for the Trustees for Syama Prasad Mookerjee Port, Kolkata in accordance with and as set forth in Notice Inviting Tender, General Conditions of Contract etc.

The quotations have been submitted in Part-I and Part-II as stipulated in your Tender Notice. We also confirm that no condition has been stipulated in the price bid in cover-II.

We hereby agree that the said specifications, conditions of tender and General Conditions of Contract together with the acceptance thereof in writing by or on behalf of the Trustees, shall constitute the contract.

We have deposited with the Trustees' an Rs..... vide Receipt/Transaction Id No.....dated.....as tender fee, photo copy of which is attached.

We also agree to abide by this tender for a period of 180 days from the opening of Part-I (techno-commercial bid) and in default of our so doing, Bid Security Declaration shall be applicable for us.

Should Syama Prasad Mookerjee Port, Kolkata ask for a break up of our price, we shall submit the same forthwith with adequate justification to establish its veracity, failing which SMPK may cancel our tender and invoke the condition of Bid Security Declaration.

We agree that you are not bound to accept the lowest or any tender you may receive and that you reserve the right to accept any offer either as a whole or in parts and that you are not bound to give any reasons for their decision.

Yours faithfully,

Dated.....

Signature.....

Full Address

(Seal)

Note: All blank spaces to be filled in by the Bidder and be submitted along with tender.

**Annexure-VI**

**1) Calculation of disincentive (Clause-26.1).**

In a month considering following depth situation:

Depth at Haldia Anchorage: 4.8 m throughout the month.

Depth at Jellingham: 4.6 m for 15 days and 4.8 m for rest of the month.

Depth at Lower Jellingham Crossing: 4.8 m throughout the month.

Depth at Upper Eden: 5.4 m throughout the month.

Maximum fall at Jellingham i.e. 0.2m (4.8-4.6) & affected period is 15 days.

Disincentive =  $2.5 \times 2 = 5\%$  for 15 days.

Monthly Quantity: Annual Quantity (Haldia Anchorage + Jellingham + Lower Jellingham crossing + Lower Eden) / 12 months.

Value of the monthly quantity = Y (Calculated based on agreed unit rates)

Monthly disincentive = 5% of Y

Deductable disincentive for 15 days would be =  $\{(5\% \text{ of } Y) / \text{Nos. of days of the Month}\} \times 15 \text{ days}$ .

**2) Calculation of disincentive for Haldia Reach (Clause-26.2).**

Monthly Quantity for Haldia Reach = Annual Norm / 12 months.

Suppose shortfall is 10% of monthly dredging target for a month.

Disincentive would be = 10% of the value of monthly quantity i.e. 10% of monthly Quantity X unit Rate.

**3) Calculation of Penalty (Clause-26.3).**

Penalty will be applicable for all the area including Haldia Reach and Lower Eden and to be applicable annually.

Suppose shortfall of quantity at Upper Eden is  $0.5 \text{ M}^3$  in a year & there is no shortfall in other area.

Penalty for Upper Eden would be equivalent to the value of  $0.25 \text{ M}^3$  (50% of shortfall quantity) as calculated considering the unit rate of Upper Eden.

**Separate calculation would be done for each area if there is shortfall.**

## Appendix-1

### (I) Details in respect of the Company /Firm (Indian /Foreign).

Sl. No.	Name of Firms / Bidders.	Date of registration of the Company.	Address of Head Office, Regional Office and Registered Office.	Previous name of the company if any.	Details of earlier approvals, if any (ref. No. & date)

### (II) Details in respect of Director.

Sl. No.	Full name of Board of Directors.	Present position held with date (since when).	Date of Birth.	Parentage.	Present & Permanent address.	Nationality.	Passport No. and issue date if any.	Contact address & telephone number.
1	2	3	4	5	6	7	8	9



**(III) Details of Shareholders of applicant company (All firms /companies/entities/individuals having shareholding more than 10%.**

Sl. No.	Full name.	Parentage Father/Mother.	Date of Birth.	Permanent address.	Present address.	Present position held in the company if any.	Nationality (if holding dual nationality, both must be clearly mentioned).	% of shares held in the Company.

**(IV) Details of criminal cases, if any against the Company / Director (s) as per Annexure.**

**SECRET**

**Self declaration for company of Director(s) for whom security clearance is sought.**

- a. Name and address and registration number of the company:
- b. Name and address of owners, promoters and directors of the company:
  1. -----
  2. -----
  3. -----
  4. -----
- c. Is the company owners, promoters or directors listed above the subject of any:
  1. Preventive detention proceedings (PSA/NSA etc.): Yes / No.
  2. Criminal proceedings : Yes / No.
- d. If, Yes. Please provide following details.
  1. Detention / Case / FIR/ Warrant number:
  2. Police station / District / Agency :
  3. Section of law:
  4. Name and place of the court:
- e. The above mentioned details are in respect of both India and any other foreign country.

Note: The above self declaration is required to be filled and signed by the authorised signatory of the company.

## **APPENDIX- 2**

### 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 10 )

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 Tenderer (in case of a consortium, name of the lead member)] to sign the tender [(Tender No. ....and (Tender 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 Syama Prasad Mookerjee Port, Kolkata (SMPK) in respect of the tender.

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)

**APPENDIX- 3**

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 10 )

POWER OF ATTORNEY

Whereas Haldia Dock Complex, SMPK ("the Authority") has invited tenders from interested parties for "....." (Tender No. ....).

Whereas, ....., ....., ..... And ..... (collectively the "Consortium") being members of the Consortium are interested in bidding for the Tender in accordance with the terms and conditions of the Tender Document and other connected documents in respect of the said tender, and

Whereas, it is necessary under the Tender 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 bid for the Tender 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 bidding process and, in the event the Consortium is awarded the Contract, during the execution of the contract, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid(s) for the tender, including but not limited to signing and submission of all applications, bids 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 bid(s) 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 bid(s) for the tender and/or upon award thereof till the Agreement is entered into with the Authority.

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)

## **Appendix - 4**

### **Profile Of The Tenderer**

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 tenderer (Lead Member in case of Consortium) who will serve as the point of contact/ communication with SMPK.
  - (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 Tenderer:

Name :

Designation :

Company :

Address :

Telephone No. :

(Land & Mobile)

Fax No. :

Email Address :

5. In case of a Consortium:

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

**Appendix - 5**

**Syama Prasad Mookerjee Port, Kolkata**

**HALDIA DOCK COMPLEX**

**Maintenance dredging in Hugli Estuary**

	<b>Name of the similar project / work executed successfully.</b>	<b>Period of the project</b>	<b>Value of the project</b>
<b>Single Entity</b>			
<b>Consortium</b>			

<b>Member 1</b>			
<b>Consortium Member 2</b>			

**Instructions:**

1. The single entity tenderer / each member of consortium should furnish its details in the appropriate column.
2. The description of each of the project shall have to be provided while giving the following details:
  - (a) Location of the project
  - (b) Contact details of the concerned dredging projects

(i) Name of Contact Person(s)

(ii) Designation(s)

(iii) Address

(iv) Telephone/Mobile No.

(v) Fax

(vi) Email

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

Name: .....

Designation: .....

Date: .....

Seal:

**CERTIFIED BY**

Name of Chartered / Certified Accountant Firm .....

Registration Number & other details .....

Name of the Signatory.....

Signature .....

Designation .....



Date .....

Seal

## APPENDIX-6

### **Details Of Financial Capability Of The Tenderer**

(In Rs. Crore)

<b>Applicant Type</b>	<b>Annual Financial Turn Over</b>
	Average on last 3 years
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.

**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**

## APPENDIX - 7

### Joint Bidding Agreement

*(To be executed on Non-Judicial Stamp Paper of at least Rs. 60/-)*

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) [SYAMA PRASAD MOOKERJEE PORT, KOLKATA, established under the Major Port Trusts Act-1963 and having Principal Office at 15, Strand Road, Kolkata-700001 (hereinafter referred to as the **"SMPK"** which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited offers by its Request through NIT No. .... dated .....(the **"TENDER DOCUMENT"**) for selection of successful tenderer for the contract as proposed in the said tender 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 tender document and other documents in respect of the work, and
- (C) It is a necessary condition under the tender document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Offer.

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

**1. Definitions and Interpretations**

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the tender document.

**2. Consortium**

- 2.1 The Parties do hereby irrevocably constitute a consortium (the **"Consortium"**) for the purposes of jointly participating in the Tendering Process for the Work.
- 2.2 The Parties hereby undertake to participate in the Tendering Process 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 tenderer and awarded the contract, it shall incorporate a special purpose vehicle (the "**SPV**") under the Indian Companies Act 1956 for entering into an Agreement with the SMPK and for performing all its obligations as the successful tenderer 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 tendering 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.}

**[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 tender document till completion of the contract.

### **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 contract, 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 tender 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 contract.
- 6.4 The Parties undertake that they shall comply with all the requirements as stipulated in the tender 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:

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power to enter into this Agreement with SMPK;
- (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 SMPK to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
- (i) Require any consent or approval not already obtained;
  - (ii) Violate any Applicable Law presently in effect and having applicability to it;
  - (iii) Violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;

- (iv) Violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, 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 fulfilment of its obligations under this Agreement.

## **8. Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the contract is achieved under and in accordance with the terms of the tender, in case the contract 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 contract, the Agreement will stand terminated in case the Tenderer is not pre-qualified or upon return of the Earnest Money by the SMPK 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 SMPK.

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

SECOND PART 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

FOURTH PART by

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

2.

***Notes:***

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the 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 SMPK 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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## **Appendix - 8**

### **Covering Letter**

**Dated :**

To,

General Manager, Marine  
Syama Prasad Mookerjee Port, Kolkata,

Dear Sir,

1. I/we, \_\_\_\_\_ (Name of tenderer) having examined the Tender Document and understood its contents, hereby submit our tender for ..... at Haldia Dock Complex, Syama Prasad Mookerjee Port, Kolkata.
- 2 All information provided in the tender including Addenda and in the Appendices are true and correct and all documents accompanying such tender are true copies of their respective originals.
3. I/We shall make available to Syama Prasad Mookerjee Port, Kolkata (hereinafter referred to as SMPK) any additional information it may find necessary or require to supplement or authenticate the Tender
4. I/we acknowledge the right of SMPK to reject our tender 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 tender / 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.
6. I/we declare that :
  - a) I/we have examined and have no reservations to the Tender Document, including the Addenda issued by SMPK 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 tender.
7. I/we understand that SMPK reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time without any liability or any obligation for such acceptance, rejection or annulment without assigning any reason thereof.
8. \_\_\_\_\_( Name of Tenderer) hereby undertakes that I/we will abide by the decision of SMPK in the matter of examination, evaluation and selection of successful tenderer and shall refrain from challenging or questioning any decision taken by SMPK in this regard.

Thanking you,

Yours faithfully,

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

**Name:** .....

**Designation:** .....

**Date :** .....

**Seal**