

**LICENSE AGREEMENT**

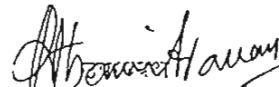
**BETWEEN**

**BOARD OF TRUSTEES OF THE PORT OF VISAKHAPATNAM**

**AND**

**M/S.VISAKHA CONTAINER TERMINAL (Private.) LTD. (VCTPL)  
MUMBAI**



  
DY CHAIRMAN

विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530 035

## LICENSE AGREEMENT

BETWEEN

BOARD OF TRUSTEES OF THE PORT OF VISAKHAPATNAM

AND

M/s. VISAKHA CONTAINER TERMINAL (PRIVATE.) LTD. (VCTPL)  
MUMBAI

FOR

ESTABLISHMENT OF CONTAINER TERMINAL

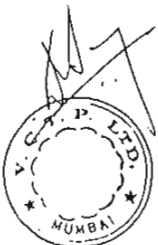
AND TO OPERATE, MAINTAIN AND MANAGE THE SAME

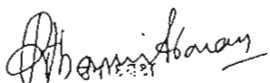
ON B.O.T. BASIS, INCLUDING SUPPLY,

INSTALLATION AND OPERATION OF

CONTAINER HANDLING EQUIPMENT

AT MULTIPURPOSE BERTH, OUTER HARBOUR.

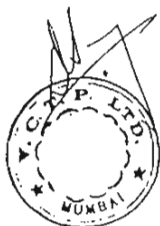
DATED : 11<sup>TH</sup> SEPTEMBER, 2002


  
DY. CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530 033

# LICENSE AGREEMENT

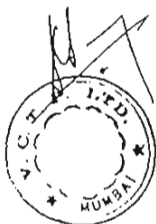
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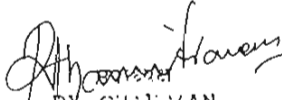
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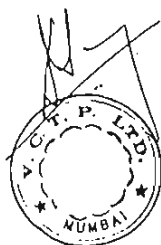
  
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 Visakhapatnam Port Trust  
 విశాఖపట్నం  
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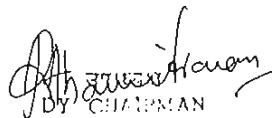
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 VISAKHAPATNAM-530 035

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 DY CHAIRMAN  
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 Visakhapatnam Port Trust  
 विशाखपट्टनम  
 VISAKHAPATNAM-530 029



दिनांक 11/09/2002

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65

17 SEP 2002

हस्ताक्षर

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made at Visakhapatnam, on this the Eleventh day of September Two Thousand Two

BETWEEN

BOARD OF TRUSTEES OF THE PORT OF VISAKHAPATNAM, a body corporate constituted under the provision of the Major Port Trust Act, 1963 and having its Office at VISAKHAPATNAM, ANDHRA PRADESH, INDIA, hereinafter referred to as "the Licensor" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns)

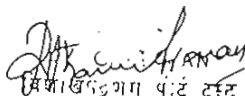
AND

M/s. VISAKHA CONTAINER TERMINAL (Private) LIMITED a company registered under the Companies Act, 1956 and having its Registered Office at 29 BANK STREET, FORT MUMBAI -400 001 hereinafter referred to as "the Licensee" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns)

WHEREAS

- The Licensor is desirous of implementing a project envisaging the establishment of Container Terminal and to operate, maintain and manage the same on "Built , Operate and Transfer (B.O.T.)" basis, including supply, installation and operation of Container



  
 Visakhapatnam Port Trust  
 विसाखपट्टणम  
 VISAKHAPATNAM

Handling Equipment at Multipurpose Berth, Outer Harbour (more particularly described in Appendix 1 and hereinafter referred to as "the Project") through private sector participation, in accordance with the Major Port Trusts Act, 1963 and the Guidelines (as hereinafter defined)

- b) In or about DECEMBER-2000, the Licensor invited applications from the interested parties in accordance with the Request for Qualification, to shortlist competent parties that can subsequently bid for the Project.
- c) In response to the invitation referred to in recital 'b' above, the Licensor received applications from various parties, including the application dated 31-08-2001 submitted by the Licensee/the Consortium, in accordance with the Request for Qualification.
- d) The Licensor, after evaluating all the applications, short listed 3 (THREE) applicants, including the Licensee/the Consortium and invited proposals from them in accordance with the Request for Proposal, for implementing the Project.
- e) In response to the Request for Proposal, the Licensor received proposals from the short listed applicants including the one submitted by the Licensee/Consortium.
- f) The Licensor, after evaluating all the proposals received by it from the short listed applicants, accepted the proposal referred to in recital 'e' above submitted by the Licensee/the Consortium and communicated its acceptance to the Licensee/the Consortium, vide Letter of Intent for Award of License dated 19-04-2002.
- g) The members of the Consortium have incorporated the Licensee as a special purpose company to implement the Project
- h) Following the issue of the Letter of Intent for Award of License, the Licensor has agreed to grant License to the Licensee to implement the Project on the terms, conditions and covenants hereinafter set forth in this Agreement.

NOW, THIS AGREEMENT WITNESSETH AS FOLLOWS

## ARTICLE 1

### DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions:

In this Agreement, unless the context otherwise requires the following terms shall have the following meanings:

"Agreement" means this agreement as of date hereof, including Appendices "I through 21" as may be amended, supplemented or modified in accordance with the provisions hereof.

"Appendix" means any of the schedules, supplements or documents, appended to this Agreement.

"Applicable Laws" means any statute, law, regulation, ordinance, rule, judgment, order, decree, byelaw, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration having the force of law of any of the foregoing, by any Government Authority having jurisdiction over the matter in question, whether in effect as of the date of this Agreement or thereafter.

"Applicable Permits" means any and all permissions, clearances, licenses, authorisations, consents, no-objections, approvals of or from any Government Authority required in connection with the Project and for undertaking, performing or discharging the obligations contemplated by this Agreement or any other Transaction Document



विशाल कुमार सिंह  
 Vice Chairman

"Board" means the Board of Trustees of the Port of Visakhapatnam.

"Completion Certificate" means the certificate to be issued by the independent Engineer pursuant to Article 3.5.

"Consortium" means the consortium consisting of (i) M/s. UNITED LINER AGENCIES OF INDIA (P) LTD., (ii) M/s. DUBAI PORTS INTERNATIONAL, DUBAI, formed pursuant to the Memorandum of Understanding dated 26-06-2001 (Appendix-2) entered into by them, for the purpose of bidding for the Project and in the event of being successful, to implement the Project through a special purpose company to be formed and incorporated by them in India.

"Construction Phase" means the period from the Date of Award of License to the Date of Commercial Operation.

"Contractor" means a reputed Person with whom the Licensee has entered into / may enter into a contract relating to any works and/or operation and maintenance of the Project Facilities and Services.

"Date of Award of License" means the date of this Agreement.

"Date of Commercial Operation" means the date on which the Licensee is entitled to commence operation of Project Facilities and Services in accordance with the provisions of this Agreement and P.T. Act.

"Day" means the twenty four (24) hour period beginning and ending at 12.00 midnight Indian Standard Time.

"Debt Due" means the aggregate sum of all amounts outstanding under the Financing Documents.

"Designs and Drawings" means the conceptual and detailed designs and drawings, backup technical information required for the Project and all calculations, samples, patterns, models, specifications and other technical information submitted by the Licensee from time to time and approved by the Independent Engineer in accordance with the provisions of this Agreement.

"Estimated Project Cost" means the sum of Rs 100 Crores being the cost of the Project as estimated by the Licensor exclusively towards the cost of Container Handling Equipment.

"Environmental Law" means any statute, rule, regulation, ordinance, code, guideline or policy having the force of law, in each case, applicable to the Project now or hereafter in effect and any applicable judicial or administrative interpretation, pronouncement, order, decree or judgment, relating to the environment, health and safety.

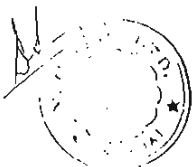
"Expert" means any person, body or organisation of repute with recognised technical/professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement appointed by the parties by mutual consent.

"Financial Assistance" means all funded and non-funded financial assistance including but not limited to loans, advances, lease assistance and guarantees required for the Project.

"Financial Close" means the date on which the Financing Documents providing for Financial Assistance from the Lenders have become effective and the Licensee has access to such Financial Assistance.

"Financing Documents" means, collectively, the documents executed in favour of or entered into by the Licensee with the Lenders, in respect of the Financial Assistance and includes any document providing security for the Financial Assistance.

"Force Majeure Event" shall have the meaning ascribed to it in Article 9.1 of this Agreement.



*[Signature]*  
 Managing Director  
 Visakhapatnam Port Trust



"GOI" means the Government of India.

"Government Authority" means GOI, any State Government or any governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Licensee, the Licensor's Assets, the Project Facilities and Services or any portion thereof, but shall not include the Licensor.

"Good Industrial Practice" means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced operator engaged in construction, operation and maintenance of facilities, equipment or systems of the type and size similar to the Project Facilities and Services.

"Guidelines" means the GUIDELINES: PRIVATE SECTOR PARTICIPATION IN MAJOR PORTS DATED 26TH OCTOBER, 1996 as modified and supplemented by "GUIDELINES: PRIVATE SECTOR PARTICIPATION IN MAJOR PORTS THROUGH JOINT VENTURES AND FOREIGN COLLABORATION DATED 1ST JUNE, 1998" ISSUED BY GOI (Ministry of Surface Transport) as amended, supplemented or otherwise modified hereafter from time to time.

"Lenders" means any persons based in India or abroad providing Financial Assistance under the Financing Documents and includes a trustee for the holders of debentures / or other debt instruments issued by the Licensee to finance the Project.

"License" means the License granted by the Licensor to the Licensee in accordance with the provisions of Article 2.1 of this Agreement for implementing the Project and providing Project Facilities and Services.

"Licensor's Assets" means the assets set out in Appendix 3, belonging to the Licensor.

"License Period" means the period of the Licensee specified in Article 2.2 of this Agreement.

"Material Adverse Effect" means a material adverse effect on (a) the ability of the Licensee to observe and perform in a timely manner its obligations under this Agreement or any Transaction Document, (b) the ability of the Licensee to avail the benefits of the License in accordance with the terms of this Agreement and (c) the legality, validity, binding nature or enforceability of this Agreement or any other Transaction Document.

"Milestone Dates" means the dates for completion of specified Project activities as contained in the Project Schedule.

"Month" means the calendar month as per the Gregorian calendar.

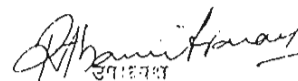
"MPT Act" means The Major Port Trusts Act, 1963 as amended, supplemented, re-enacted or replaced.

"Operations Phase" means the period from the Date of Commercial Operation to the expiry/termination of the License Period.

"Party" means either the Licensor or the Licensee as the context may require or admit and

"Parties" means both Licensor and Licensee.



  
DY. CHAIRMAN

विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम

"Person" means any individual, company, corporation, partnership, joint venture, trust, unincorporated organisation, government or governmental authority or agency or any other legal entity.

"Performance Guarantee" shall mean the Bank Guarantees/Performance Guarantee dated \_\_\_\_\_ in a sum of Rs 5 Crores procured by the Licensee from \_\_\_\_\_ (name of the Bank/Public Financial Institution), guaranteeing the obligations of the Licensee to enter into this Agreement and to perform its obligations during the Construction and operation period of the entire License period. The P.G. will have a validity of 3 years initially and will be renewable every 3 years. The P.G. will have a claim period of 3 months beyond the stipulated period.

"Project Contracts" means collectively this Agreement and any other material contract other than the Financing Document(s) entered into or may hereafter be entered into by the Licensee in connection with the Project and Project Facilities and Services.

"Project Facilities and Services" means the facilities and services as set out in Appendix 4 hereto to be provided by the Licensee during the License period in accordance with this Agreement.

"Project Schedule" means the Appendix 5 hereto.

"Request for Proposal" means the Request for Proposal dated 31-08-2001 issued by the Licensor to the applicants short listed pursuant to the Request for Qualification and includes any addendum/clarifications issued in respect thereof by the Licensor.

"Request for Qualification" means the Request for Qualification dated 10-12-1999 issued by the Licensor inviting applications in accordance therewith for short listing the competent applicants that can subsequently bid for the Project, and includes any addendum/clarifications issued in respect thereof by the Licensor.

"Scale of Rates" means the scale of rates approved from time to time by the Board / notified by TAMP under the provisions of MPT Act, as applicable.

"TAMP" means Tariff Authority for Major Ports established under the MPT Act.

"Tariff" means the applicable rate(s) as per Scale of Rates.

"The Port" means VISAKHAPATNAM PORT.

"Transfer Date" means the date immediately following the date of expiry or termination as the case may be, of the License Period in accordance with the terms of this Agreement.

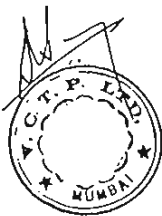
"Transaction Documents" means collectively the Project Contracts and the Financing Documents.

## 1.2 Other References:

In this Agreement:

"CISF" means Central Industrial Security Force.

"m" means Metre, the unit of length.



*[Signature]*  
उपाध्यक्ष

DY CHAIRMAN

विशाखपट्टणम पोर्ट ट्रस्ट

Visakhapatnam Port Trust

विशाखपट्टणम

VISAKHAPATNAM-530 038

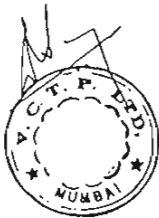
"sqm" means Square Metre, the unit of area.  
 "km" means Kilometre, the unit of length  
 "KWH" means Kilowatt-hour, the unit of electrical energy  
 "MT" means Metric Tonne, the unit of weight.  
 "KVA" means Kilo Volt Ampere, the unit of power  
 "MVA" means Mega Volt Ampere, the unit of power  
 "mm" means Millimetre, the unit of length.  
 "VPT" means Visakhapatnam Port Trust.

### 1.3 Interpretations:

This Agreement constitutes the entire understanding between the Parties regarding the Project and supersedes all previous written and/or oral representations and/or arrangements regarding the Project. If there is any aspect of the Project not covered by any of the provisions of this Agreement, then and only in that event, reference may be made by the Parties to the Bid Document issued by the Licensor, including addendums, clarifications given in writing in the pre-bid meetings and the submissions of the Licensee and the bid submitted by the Licensee.

In this Agreement, unless the context otherwise requires;

- a) The words importing the singular shall mean the plural and vice-versa.
- b) "Article" and "Appendix" shall refer, respectively to Articles of and any Appendix to this Agreement. The Appendices to this Agreement shall form part and parcel of this Agreement
- c) A reference to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date of this Agreement, from time to time be amended, supplemented or re-enacted
- d) The references to the word "include" or "including" shall be construed without limitation.
- e) The references to any agreement or deed or other instrument shall be construed as a reference to such agreement, deed or other instrument as the same may from time to time be amended, varied, supplemented or novated
- f) The table of contents and any headings in this Agreement are for ease of reference only and shall not affect the interpretation of this Agreement
- g) Unless otherwise reprovided, any interest to be calculated and payable under this Agreement shall accrue on a Monthly basis and from the respective due dates as provided for in this Agreement
- h) Any word or expression used in this Agreement shall, unless defined or construed in this Agreement, bear its ordinary English meaning.
- i) Where there is a difference of opinion between what has been stipulated by the Licensor and offered by the Licensee till the signing of the Agreement, the stipulation of the Licensor shall prevail



*[Signature]*  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530 035

ARTICLE 2LICENSE AND LICENSOR'S ASSETS2.1 License:

The Licensor hereby grants to the Licensee, subject to the provisions of this Agreement, an exclusive license for designing, engineering, financing, constructing, equipping, operating, maintaining, replacing the Project/Project Facilities and Services.

2.2 License Period:

The License hereby granted is for a period of 30 years commencing from the Date of Award of Licence during which the Licensee is authorised to implement the Project and to provide Project Facilities and Services in accordance with the provisions here of.

Provided in the event of any delay attributable to the Licensor in handing over possession of the Licensor's Assets to the Licensee as provided in Article 2.4 of this Agreement, the said period shall commence from the date the Licensor's Assets are fully handed over to the Licensee.

Provided further that:-

- a) in the event of the License being extended by the Licensor beyond the said period of 30 years in accordance with the provisions of this Agreement, the License Period shall include the period by which the License is so extended and
- b) in the event of an early termination/de-termination of the License / this Agreement by either Party in accordance with the provisions hereof, the License Period shall mean and be limited to the period commencing from the Date of Award of License and ending with the date of termination/de-termination of the License/this Agreement.

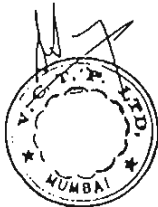
2.3 a) Acceptance of the License:

The Licensee hereby accepts the License and agrees and undertakes to implement the Project and to provide Project Facilities and Services in accordance with the provisions of this Agreement.

b) Future Expansion of Multi Purpose Berth and First right of refusal:

In the event of future expansion, the successful / Licensee will have a First right of refusal. The rates quoted in the open tender shall be matched to the rates offered by the licensee and the highest rate shall be adopted. The status of the Berthing facility offered on BOT Basis is as follows

- |  |                                   |
|--|-----------------------------------|
| 1. a) Total Berth length                     | : 449 Mtrs. (Including extension) |
| b) Scope for future Expansion.               | : 350 Mtrs.                       |
| 2. Dredged depth at the berth                | : 16.5 Mtrs.                      |
| 3. Permissible Draft of the Ship             | : 14.90 Mtrs.                     |
| 4. Max. Length of the Berth that can be used | : 449 Mtrs.                       |
| 5. a) Paved storage area                     | : 42,000 Sq.Mtrs.                 |
| b) Additional area available for pavement    | : 32,000 Sq.Mtrs.                 |



*(Signature)*  
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 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530 035

#### 2.4 Licensor's Assets:

- a) In consideration of the Licensee agreeing to perform and discharge its obligations as set forth in this Agreement, the Licensor hereby grants to the Licensee, the exclusive right to enter upon, occupy and use the Licensor's Assets for the purpose of implementing the Project in accordance with this Agreement, and puts the Licensee in exclusive possession thereof.
- b) The Licensee shall at its costs, charges and expenses be entitled to make such development and improvements in the Licensor's Assets as may be necessary or appropriate for implementing the Project and providing Project Facilities and Services.

#### 2.5 Use of Licensor's Assets:

The Licensee shall not without the prior written consent or approval of the Licensor, use the Licensor's Assets for any purpose other than for the purposes of the Project/the Project Facilities and Services and purposes incidental thereto as permitted under this Agreement or as may otherwise be approved by the Licensor.

#### 2.5 (1) Deployment of Berth when it is vacant and Sharing of Wharfage:

Whenever the Berth is not occupied by container vessels, VPT reserves the right to utilize the Berth for berthing ships and /or handling compatible cargo subject to the condition that the Berth will be made available to the licensee with in the mutually agreed notice period.

The priority Berthing orders of Govt. of India in force from time to time would apply.

The Licensee shall be entitled to collect Wharfage at VPT scale of rates and retain 50% of the same, when VPT designated vessels are Berthed at the terminal when it is vacant.

#### 2.6 Information about Licensor's Assets:

The information about the Licensor's Assets as set out in Appendix 3 is provided by the Licensor in good faith and with due regard to the matters for which such information is required by the Licensee. The Licensor agrees to provide to the Licensee, upon a reasonable request, any further information relating to the Licensor's Assets, which the Licensor may now possess or may hereafter come to possess. Subject to this, the Licensor makes no representation and gives no warranty to the Licensee in respect of the condition of the Licensor's Assets

#### 2.7 Acceptance of the Licensor's Assets:

The Licensee accepts possession of the Licensor's Assets on 'as is where is' basis.

#### 2.8 Peaceful Possession:

The Licensor warrants that the Licensee shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the Licensor's Assets during the License Period. In the event the Licensee is obstructed by any Person claiming any right, title or interest in or over the Licensor's Assets or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have charge on the Licensor's Assets or any part thereof pursuant to Section 78



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of the MPT Act or otherwise, the Licensor shall, if called upon by the Licensee, defend such claims and proceedings and also keep the Licensee indemnified against any consequential loss or damages which the Licensee may suffer, on account of any such right, title, interest or charge.

### ARTICLE 3

#### PROJECT: REQUIREMENTS, RIGHTS AND OBLIGATIONS

##### 3.1 Cost of Implementation, Operation and Maintenance:

Subject to the provisions of this Agreement, the Licensee shall at its costs, charges, expenses and risk including but not limited to foreign exchange risk if any, design, engineer, finance, construct, equip, operate and maintain the Project / Project Facilities, in accordance with the provisions of this Agreement.

##### 3.2 Independent Engineer:

- a) The Licensee shall within 30 days from the date hereof submit to the Licensor a panel consisting of at least three reputed firms or companies or body corporates or a combination thereof, having necessary expertise for appointment of the Independent Engineer, to undertake, perform, carry out the duties, responsibilities, services and activities set forth in Appendix 9 and elsewhere in this Agreement.
- b) The Licensor shall within 30 days from the date of receipt of such panel, appoint the Independent Engineer from out of such panel, and communicate the same to the Licensee. The tenure and the scope of work and the reports to be submitted by the Independent Engineer shall be as set out in Appendix 9.
- c) The costs and expenses of the Independent Engineer shall be entirely borne and paid by the Licensor.
- d) If the Licensor or Licensee have reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, the Licensor may terminate the appointment of the Independent Engineer and appoint another firm in its place in accordance with the preceding Clause (a) and (b) above.
- e) If either party disputes any advice, instruction or decision of the Independent Engineer, the dispute shall be resolved in accordance with the dispute resolution procedure set out in Article 15.

##### 3.3 Preparation of Designs and Drawings:

- a) The Licensee shall, at its cost, charges and expenses, prepare the Designs and Drawings in accordance with the Preliminary Design Criteria and Technical Specifications as set out in Appendix 7.
- b) The Licensee shall cause the preparation of the Design and Drawings as set out in Appendix 8 and seek approval of such Designs and Drawings by the Independent Engineer.



*Manikanta*  
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DY CHAIRMAN

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#### 3.4 Review and Approval of the Designs and Drawings:

- a) The Licensee shall submit the Designs and Drawings for the approval of the Independent Engineer
- b) The Independent Engineer shall review the Designs and Drawings submitted by the Licensee and subject to the provisions of 3.4 (c) herein below, communicate its approval within twenty one days from the date of the receipt of such Designs and Drawings.
- c) In the event that the Independent Engineer has any objection to the Designs and Drawings it shall promptly and without any undue delay notify the Licensee of its objections, seek clarifications or suggest changes or modifications or corrections thereto. Thereupon, the Licensee shall provide necessary clarification to the Independent Engineer and/or re-submit the Designs and Drawings as the case may be, after incorporating the changes, modifications or corrections suggested by the Independent Engineer
- d) If the Independent Engineer does not object to the Designs and Drawings submitted to it by the Licensee within twenty one days of submission, the Independent Engineer shall be deemed to have approved such Designs and Drawings and the Licensee shall be entitled to proceed with the Project accordingly
- e) The Licensee shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or in resubmitting the Designs and Drawings. Provided however the Licensor may suitably extend the Construction Period or provide other relief to compensate for any such delay not attributable to the Licensee.
- f) The Licensee shall not change any Designs and Drawings approved or deemed to be approved by the Independent Engineer under this Agreement, without prior written consent of the Independent Engineer. Provided that the Licensee may, for more efficient functioning of the Project Facilities and Services propose to the Independent Engineer changes to the approved Designs and Drawings and specifications of any equipment consistent with all design standards applicable to the Project and the Applicable Laws
- g) Notwithstanding the express or deemed approval by the Independent Engineer, the Licensee shall be solely responsible for any defect and/or deficiency in the Designs and Drawings relating to the Project or any part thereof and accordingly the Licensee shall at all times remain responsible for its obligations under this Agreement.
- h) Any review of the Designs and Drawings conducted by the Licensor is solely for the Licensor's own information and that by conducting such review, the Licensor does not accept any responsibility for the same
- i) The Licensee shall in no way represent to any person that, as a result of any review by the Independent Engineer, the Licensor has accepted responsibility for the engineering or soundness of any work relating to the Project/the Project Facilities and Services or part thereof carried out by the Licensee and the Licensee shall, subject to the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project/the Project Facilities and Services or any part thereof.



*Amitha Ray*  
उपाध्यक्ष  
DY CHAIRMAN

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### 3.5 Construction Period:

- 1) The Licensee shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule and obtain from the Independent Engineer a certificate as to completion of construction Project Facilities and Services in accordance with the provisions of this Agreement.
- 2) a) The lead time to start commercial operations shall be taken as **9 months** for the 1<sup>st</sup> phase of 5 years operation to give **15 moves** per ship per berth hour from the date of signing of License Agreement  
 b) From the end of 5<sup>th</sup> year (Phase-II) the No. of moves per ship per berth hour shall be 30.  
 c) The construction period shall be taken as 18 months from the day the throughput level reaches 1,00,000 TEU's, to install and commission the equipment.
- 3) Subject to any of the provisions of this Agreement providing for extension of time for performance or excuse from performance, as the case may be, of any of the obligations of the Licensee under this Agreement, the Licensee shall pay to the Licensor liquidated damages at the rate of **Rs.5.6 Lakhs** per day for delay of every day provided such liquidated damages shall not in aggregate exceed **5%** of the Estimated Project Cost. In case the delay exceeds **90 days**, the Licensor shall be entitled to terminate this Agreement.

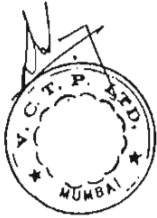
### 3.6 Minimum Guaranteed Cargo:

#### Minimum guarantee throughput:

1. A copy of the price proposal (**Appendix-21A**) showing the minimum guaranteed throughput per each year of the license period is enclosed.
2. In case the minimum guaranteed throughput is not achieved the short fall in the income will be recovered from the licensee.
3. In case the minimum throughput is in excess, the gross income proportionally increases.
4. In addition to the above, when the Licensee fails to comply with minimum guaranteed throughput, the Licensor has the option to terminate the contract as per **Article-10** of the License Agreement.
5. In case the minimum guarantee throughput is in excess, the gross income proportionately increases.

### 3.7 Environmental Clearance:

Environmental clearance for the activity at the berth and environmental monitoring and compliance shall be the responsibility of Licensee only.



*(Signature)*  
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### 3.8 Construction Phase:

#### a) Obligations of the Licensee:

In addition to any of its other obligations under this Agreement, during the Construction Phase, the Licensee shall:

- i) in accordance with the Project Schedule, commence and complete the works required to satisfy the overall scope of Project Facilities and Services to be provided by the Licensee as listed in **Appendix 5**;
- ii) entrust responsibility for project management and construction to professionally competent persons;
- iii) achieve Financial Close and make available in a timely manner all necessary financial and other resources required for construction and installation of the Project Facilities and Services;
- iv) comply with Applicable Laws and give priority to safety in its construction and planning activities in order to protect life, health, property and environment;
- v) provide to the representative(s) of the Licensor, at reasonable times and upon prior intimation, access to the Project site to review progress in construction and to ascertain compliance with any of the requirements of this Agreement. Provided that failure on the part of the Licensor to inspect any works shall not, in relation to such works, (i) amount to any consent or approval by the Licensor nor shall the same be deemed to be waiver of any of the rights of the Licensor under this Agreement; and (ii) release or discharge the Licensee from its obligations or liabilities under this Agreement in respect of such work;
- vi) Promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Independent Engineer and ensure completion of construction of the Project / the Project Facilities and Services in all respects in accordance with the provisions of this Agreement;
- vii) The B.G. for Rs.5.00 Crores submitted towards P.G. will be retained by V.P.T. till the end of the Project.. The B.G. shall have a validity of 3 years initially and will be renewable every three years. The B.G. will have a claim period of 3 months beyond the stipulated period.

The licensee shall continue to remain liable to the extent of the said sum of Rs.50 mn and shall pay the same to the licensor forthwith on demand in the event of the licensee's failure/ breach in performing / discharging his obligations during the construction and operation phase of the License period.

The Licensee is allowed to submit Performance Guarantee with in 30 days after signing of License agreement, with a validity of 3 years and claim period of 3 months and renewable every 3 years for the entire license period of 30 years.



*Atthamitkaray*  
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b) Obligations of the Licensor:

In addition to any of its other obligations under this Agreement, during the Construction Phase, the Licensor shall

- i) grant or as the case may be, assist the Licensee in obtaining all Applicable Permits required by the Licensee
- ii) upon written request from the Licensee, assist the Licensee in obtaining immigration clearances, employment permits and residential premises for any foreign personnel engaged or employed by the Licensee in connection with the implementation of the Project.
- iii) subject to the Licensee/Contractor complying with the requirements under the Applicable Laws, including but not limited to payment of customs and any other duty, assist the Licensee or Contractor to import into India all items of equipment and materials required for the Project.
- iv) make available all records of sub-soil investigations carried out on its behalf in the Licensor's Assets, if requested by the Licensee.
- v) promptly grant approvals/consents sought by the Licensee as required under this Agreement.
- vi) upon receipt of Completion Certificate issued by the Independent Engineer promptly obtain approval of the Collector of Customs, publish requisite notifications in the Official Gazette and declare the Project Facilities and Services as ready for operation in accordance with the provisions of Section 37 of the MPT Act.

3.9 Operations & Maintenance Phase:

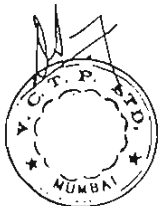
A) Obligations of the Licensee:

In addition to any of its other obligations under this Agreement, the Licensee shall during the Operations Phase manage, operate, maintain and repair the Project Facilities and Services, entirely at its cost, charges, expenses and risk in accordance with the provisions of this Agreement. The Licensee's obligations under this Article 3.9 shall include but shall not be limited to the following:

(i) Berth and Terminal Operations:

The Licensee shall:

- a) Promptly commence operations upon the Project Facilities and Services being declared by the Licensor as ready for operations.
- b) Make efforts to maximise cargo handled so as to achieve optimal utilisation of the Project Facilities and Services.
- c) Broadly adhere to the Operational Strategies and Work Plan as set out in Appendix-12. Any significant change to Operational Strategies and work Plan shall only be with prior intimation to the Licensor.



*Shamir Hanay*  
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 VISAKHAPATNAM-530 035

- d) make available all necessary financial, technical, technological, managerial and other resources for operation, maintenance, repair and replacement of the Project Facilities and Services in a timely manner.
- e) obtain approval of the Licensor / TAMP for the Tariff for warehousing / storage/ container handling etc., where ever required under Applicable Laws.
- f) conform to the Equipment Plan forecast as listed in **Appendix 13**.
- g) broadly abide by the Year wise investment Plan as set forth in **Appendix 14**.
- h) manage and operate the Project Facilities and Services on a common-user basis, open to any and all shipping lines, importers, exporters, shippers, consignees and receivers, and refrain from indulging in any unfair or discriminatory practice against any user or potential user thereof;
- i) ensure maintenance of proper and accurate record / data / accounts relating to operations of the Project Facilities and Services and the revenue earned there from;
- j) comply with the Applicable Laws including those relating but not limited to dock side safety, health, environment and labour.
- k) subject to the provisions of this Agreement, perform, undertake or provide, in connection with the Project, all services which the Licensor is authorised to perform, undertake or provide under the Provisions of **Section 42 of the MPT Act**.

(ii) Repairs and Maintenance:

The Licensee shall;

- a) abide by the Operations and Maintenance Plan as outlined in **Appendix 15**;
- b) maintain the Project Facilities and Services in accordance with the Good Industrial Practice with the objective of Providing adequate service standards and ensuring that the Project Facilities and Services to be transferred to the Licensor upon expiry of the License Period are in good condition, normal wear and tear excepted.
- c) meet all costs of operation, maintenance and repairs of the Project Facilities and Services or any part thereof.

(iii) Replacement of Equipment:

The Licensee shall at its cost plan for replacement of the equipment well ahead of the due dates and replace the equipment as per the Equipment Replacement Plan set out in **Appendix 16**.

(iv) Repairs, Replacement or Restoration:

The Licensee shall at its own costs, promptly and diligently repair, replace or restore any of the Project Facilities and Services or part thereof which may be lost, damaged or destroyed.



*Abhinav Haran*  
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(v) Removal / Replacement of Assets:

Except as provided / authorised under this Agreement the Licensee shall not, without the prior approval of the Licensor, remove or replace any assets comprised in the Project Facilities and Services.

(vi) Payments to the Licensor:

The Licensee shall make/ensure payments to the Licensor as per Article 5.

(vii) Access for Inspection:

The Licensee shall upon prior intimation by the Licensor provide the authorised representatives of the Licensor access to the Licensor's Assets / the Project Facilities and Services for inspection and review of operations and also to ascertain compliance with any of the requirements under this Agreement.

(viii) Reports:

The Licensee shall provide to the Licensor monthly / quarterly reports on Cargo Traffic, unit gross output / discharge rates at berth, daily output rated per vessel and effective working time to waiting within fifteen Days following the end of each Month / Quarter, and any other information relating to operations which the LICENSOR may reasonably require.

(ix) Security Arrangements:

The Licensee may make his own arrangements for security in the Licensor's Assets provided the Licensee shall abide by the security regulations / procedures prescribed by the Licensor from time to time.

(x) Employment of Personnel:

The Licensee shall employ qualified and skilled personnel required to operate the Project Facilities and Services. The terms of employment may be as deemed fit by the Licensee and the Licensee shall bear all costs in this regard. All such employees shall always remain the Licensee's responsibility.

Provided the Licensee shall comply with the requirements of employing the existing personnel/labour as agreed to and set out in Appendix 17.

B) Rights of Licensee:(i) Preferential and Priority Berthing:

The Licensee may offer preferential or priority berthing to any one or more shipping lines or vessel owners / operators to optimise the use of the Project Facilities and Services in accordance with Appendix 18.

Further for according movement priority for berthing container vessels that arrive on fixed window basis, the following guidelines would be followed



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 VISAKHAPATNAM-530 039

- a) The Container Vessels that arrive on fixed window basis will be accorded priority movement for berthing. However, in case of any Suez Max tanker vessel waiting, the container vessel will not be delayed for more than 5 hours for berthing and sailing.
- b) The Container Vessels requiring priority on fixed window basis should give its scheduled arrival/departure atleast three months in advance.
- c) The expected time of arrival/departure of the container vessel should be declared minimum 48 hours in advance.
- d) If the shipping line/BOT Operator does not bring within +/- 2 hours of the commencement of the time reserved for the berth, it will forfeit its fixed window berthing movement priority.
- e) The berthing/sailing movement priority will be subject to over riding priority given by the Govt. to specified vessels or classes of vessels, natural calamities, labour strike, defence requirement, force majeure and acts of God.

(ii) **Unclaimed Cargo:**

The Licensee may at its cost:

- a) after obtaining prior written approval of the Commissioner of Customs and in accordance with the provisions of MPT Act, destroy or dispose of by way of Public auction and/or tender, any unclaimed cargo, the charge of which has been taken by Licensee under or pursuant to this Agreement, and
- b) institute proceedings for recovery of unrealised charges, if any, in its name and/or defend any claim made in respect of such cargo by consignee/owners. The Licensor agrees to provide all reasonable assistance necessary in this regard to the Licensee.

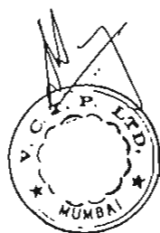
3.9 C) **Obligations of the Licensor**

In addition to any of its other obligations in this Agreement, the Licensor shall arrange for and provide the following:

(i) **Marine and Port Services:**

The Licensor shall provide / cause to be provided, at no cost to the Licensee, the following services:

- a-i) Scheduling the entry, berthing and sailing of the vessels, pilotage and towage on a non-discriminatory basis subject to priority berthing norms set out in Appendix 18 & 3.9 B and the sailing schedule as determined by the Deputy Conservator of the Port depending on individual ship characteristics and tidal conditions;
- a-ii) All the vessels carrying containers, arriving at VPT will be directed to terminal except for the vessels carrying up to 5 containers empty/ Loaded.
- b) maintenance of the Entrance Channel draft at 19 mtrs.



*(Signature)*  
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VISAKHAPATNAM-530035

- c) Waterside safety and safety of navigation;
- d) maintenance of the dredged depth alongside the berth at (-) 16.50 m.
- e) Carry out capital or maintenance dredging operations, if any that may be required to ensure the draft to be provided or maintained at the levels agreed under this Agreement, with minimum inconvenience to or dislocation of the Project Facilities and Services;
- f) Provision and Maintenance of all general port infrastructure other than those covered under the License, necessary for management, operation and maintenance of the Project Facilities and Services;
- g) assist the Licensee in securing the assistance of CISF or the relevant Government Authority as may be necessary to prosecute any person for any offence committed by them within the Licensor's Assets.

ii) Approvals and Inspection:

The Licensor shall promptly grant approvals / consents sought by the Licensee as required under this Agreement

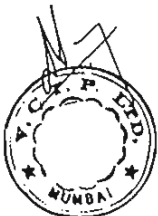
iii) Breach of Licensor's obligations

In the event of the Licensor's failure/breach in providing the marine and port services in accordance with the preceding Clause (i), the Licensee shall, without prejudice to any other right or remedy available to it, be compensated by the Licensor for direct loss, if any, suffered by the Licensee on account of such failure / breach.

3.10 Utilities and Services:

The LICENSOR shall during the period of the License permits access to the Licensee to all infrastructure facilities and utilities including water, electricity and telecommunication facilities necessary to develop, establish, finance, design, construct, operate, maintain, repair and replace the Project / Project Facilities and Services in accordance with this Agreement, at rates and on terms no less favorable to the Licensee than those generally available to commercial customers availing substantially equivalent facilities and utilities, provided unless otherwise agreed to the Licensor.

- a) The successful Bidder will have to contact APTRANSCO for the requirement of power independent of VPT
- b) The water made available shall be as received by the Licensor from Municipal Corporation of Visakhapatnam. The take off point for water shall be from the VPT's Overhead Tank in the Fishing Harbour.
- c) The Licensee shall, at its cost, and to the satisfaction of the Licensor, install meters to measure the consumption of power and water. In the event of disruption/breakdown of power / water supply for any reasons whatsoever other than for reasons of default, neglect or failure attributable to the Licensor no compensation shall be paid by the Licensor for any loss or damages caused or suffered by the Licensee as a result thereof. Provided however if the



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 VISAKHAPATNAM-530 035

disruption of power / water supply is for reasons attributable to the Licensor, the Licensee shall be compensated by the Licensor for any direct loss or damage caused or likely to be caused to the Licensee on account thereof.

- d) The Licensee may, at its cost, make alternate arrangements for Power including but not limited to installation of generators, subject to obtaining Applicable Permits, if any, thereof.

#### ARTICLE 4

##### TARIFF

##### 4.1 Levy and Recovery of the Tariff:

The Licensee shall, during the Operations, be entitled to levy and recover Tariff from the owners / consignees of cargo and the Vessel owners / agents using the Project Facilities and Services as per the Scale of Rates, as of the date hereof, the applicable Tariff as set out in Appendix 6.

#### ARTICLE 5

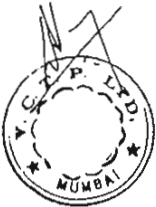
##### PAYMENTS TO THE LICENSOR

##### 5.1 Payments of Royalty:

- The Licensee shall pay to the Licensor Royalty per month equivalent per TEU as per APPENDIX-21 'A' from the operations of the project facilities and services comprised in the project by levy of tariff during the month.
- For the purpose of computation of royalty, the discounts in Tariff, if any, offered by the Licensee to the users shall be ignored. Provided nothing contained in this clause shall be deemed or construed to authorise the Licensee to offer any discounts in Tariff unless the Licensee is otherwise entitled under the Applicable Laws to offer the same.
- Royalty for each Month shall be paid on or before the seventh day of the immediately succeeding Month.
- The payment of royalty shall commence from the Month in which the Date of Commercial Operation occurs.
- Royalty amounts remaining unpaid on respective due dates would carry interest @2% per Month from the date till the date of payment or realisation thereof.

##### 5.2 Payments for the Licensor's Assets:

- The Licensee shall pay to the Licensor the sum of **Rs.3.19 Crores** (as specified in the bid documents) Such amount shall be paid by the Licensee as agreed upon in lumpsum.
- Any delay in payment of the amount in the preceding clause (a) shall entail payment of interest @ 2% per Month on the amount outstanding.



*[Signature]*  
उपाध्यक्ष

DY CHAIRMAN

विशाखपट्टणम पोर्ट ट्रस्ट

Visakhapatnam Port Trust

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VISAKHAPATNAM-530 035

### 5.3 Additional Premises / Utilities or Services:

The Licensee shall also pay rent or other charges for the additional land or other premises or additional utilities or services, made available by the Licensor to the Licensee in accordance with the terms, conditions and covenants mutually agreed between the Licensor and the Licensee

## ARTICLE 6

### ASSETS: OWNERSHIP AND CERTAIN RIGHTS

#### 6.1 Ownership of Assets:

##### a) Land and Water Area:

The Ownership of the Licensor's Assets shall always remain vested with the Licensor. The rights of the Licensee in the Licensor's Assets shall only be that of a Licensee of such assets.

##### b) Assets Created or Provided by the Licensee:

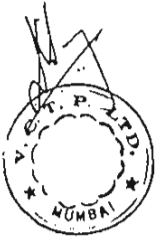
The ownership of all infrastructure assets, buildings, structures, berths, wharves, equipment and other immovable and movable assets constructed, installed, located, created or provided by the Licensee in the Licensor's Assets pursuant to this agreement shall, until transfer to the Licensor in accordance with this Agreement, be with the Licensee.

##### c) Any assets created by the licensee outside the project requirement, the licensor will have the first right of refusal.

#### 6.2 Permitted Charge on Assets:

The Licensee shall be entitled to mortgage, hypothecate or otherwise charge from time to time all its rights, title and interest in the assets referred to in Article 6.1(b) in favour of Lenders for securing the Financial Assistance provided or agreed to be provided by them under the Financing Documents.

Provided that in the event of termination of this Agreement the said charge shall stand extinguished upon payment of compensation / Terminal Value by the Licensor to the Lenders, to the extent they are entitled to receive the same in accordance with the Provisions of this Agreement. However, nothing contained in this proviso shall apply to the Licensee's assets not taken over by the Licensor and the existing charge, if any, on such assets shall, subject to the Provisions of the Financing Documents continue to subsist.



*Amit Kumar*  
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ARTICLE 7GENERAL RIGHTS, DUTIES AND OBLIGATIONS7.1 Of the Licensee:a) Shareholding:

The Licensee shall ensure that the Sponsors maintain their equity holding as set out in Appendix-19 until expiry of 3 years from the date of Commercial Operations. Any dilution in the said holding shall only be with the prior approval of the Licensor.

Provided, nothing contained in this Article shall preclude or prevent pledge of Sponsor's shares in the Licensee in favour of Lenders as security for the Financial Assistance and enforcement thereof in accordance with this Agreement and/or the Financing Documents.

b) Applicable Permits:

The Licensee shall at all times during the Licensee Period maintain the Applicable Permits.

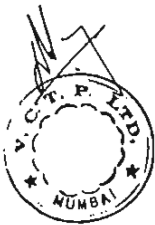
c) Taxes, Duties, etc.:

The Licensee shall during the License Period pay in a timely manner all taxes, duties, levies, cess and charges, including but not limited to income tax, sales tax, excise duty, customs duty and octroi that may be levied, claimed or demanded from time to time by any Government Authority including any increase therein effected from time to time from any Government Authority, in respect of the Project / the Project Facilities and Services.

d) Insurance:(i) Construction Phase

The Licensee shall, at its cost and expense, purchase and maintain during the Construction Phase such insurances as are necessary, including but not limited to the following:

- a) builders all risk insurance;
- b) comprehensive third party liability insurance including injury or death to personnel of the Licensor and others who may enter the Licensor's Assets;
- c) workmen's compensation insurance;
- d) marine cum storage cum erection insurance;
- e) any other insurance that may be necessary to protect the Licensee, its employees and its assets (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in terms (a) to (d).



*Shamir Faray*  
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(ii) Operations Phase

The Licensee shall, at its cost and expense, purchase and maintain during the Operations Phase Insurance to cover against:

- a) loss, damage or destruction of the Project Facilities and Services, at replacement value;
- b) the Licensee's general liability arising out of the License;
- c) liability to third parties and
- d) any other insurance that may be necessary to protect the Licensee and its employees, including all Force Majeure Events that are insurable and not otherwise covered in terms (a) to (c).

(iii) Insurance Companies:

The Licensee shall insure all insurable assets comprised in the Licensor's Assets and/or the Project Facilities and Services through Indian Insurance Companies and if so permitted by GOI, through foreign insurance companies, to the extent that insurances can be effected with them.

(iv) Evidence of Insurance Cover:

The Licensee shall from time to time, provide to the Licensor copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Licensee in accordance with this Agreement.

(v) Application of Insurance Proceeds:

Subject to the provisions of the Financing Documents, all moneys received under Insurance Policies shall be promptly applied by the Licensee towards repair or renovation or restoration or substitution of the Project Facilities and Services or any part thereof which may have been damaged or destroyed. The Licensee may designate the Lenders as the loss payees under the insurance policies / assign the insurance policies in their favour as security for the Financial Assistance. The Licensee shall carry out such repair or renovation or restoration or substitution to the extent possible in such manner that the Project Facilities and Services or any part thereof, shall, after such repair or renovation or restoration or substitution be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.

(vi) Validity of the Insurance Cover:

The Licensee shall pay the premium payable on such insurance policy(ies) so as to keep the policy(ies) in force and valid throughout the License period and furnish copies of the same to the Licensor. Each Insurance policy shall provide that the same shall not be cancelled or terminated unless 10 days' clear notice of cancellation is provided to Licensor in writing. If at any time the Licensee fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, the Licensor may at its option purchase and maintain such insurance and all sums incurred by the Licensor there for shall be reimbursed by the Licensee forthwith on demand, failing which the same shall be recovered by the Licensor by exercising right of set off or otherwise.



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e) Indemnification:

The Licensee shall indemnify and keep indemnified and otherwise save harmless, the Licensor, its agents and employees, from and against all claims, demands made against and/or loss caused and/or damages suffered and/or cost, charges/expenses incurred to and/or penalty levied and/or any claim due to injury to or death of any person and/or loss or damaged caused or suffered to property owned or belonging to the Licensor, its agents and employees or third party as a result of any acts, deeds, or thing done or omitted to be done by Licensee or as a result of failure on the part of the Licensee to perform any of its obligations under this Agreement or on the Agreement or on the failure of the Licensee to perform any of its statutory duty and/or obligations or as a consequence of any notice, action, suit or proceedings, given, initiated filed or commenced by consignee or owner of goods or vessel owner/agent or its employees or any third party or Government Authority or as a result of any failure or negligence or default of the Licensee or its Contractor(s), sub-contractor(s) or employees, servants, agents, of such Contractor(s) sub-contractor(s) and/or invitees as the case may be, in connection with or arising out of this Agreement and/or arising out of or, in connection with the Licensee's use and occupation of Licensor's Assets and/or construction, operation and maintenance of the Project Facilities and Services.

f) Assignability:

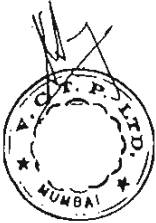
Except as otherwise provided in this Agreement, neither party shall assign its rights, title or interest in this Agreement in favour of any Persons without prior written consent of the other party.

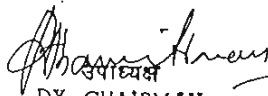
Provided the Licensee may assign its rights, interests and benefits under this Agreement to the Lenders as security for the Financial Assistance. Provided, further nothing contained in this Article shall;

- (i) absolve the Licensee from its responsibilities to perform/discharge any of its obligations under and in accordance with the provisions of this Agreement; and
- (ii) shall authorise or be deemed to authorise the Lenders to operate the Project Facilities and Services themselves.

g) Engagement of Contractors:

The Licensee may engage any Person possessing the requisite skill, expertise and capability for designing, engineering, procurement and construction of civil/mechanical/electrical engineering structures / equipment, and/or operation and maintenance of the Project Facilities and Services provided the Licensee shall at all times be solely responsible for non-performance or for any defect, deficiency or delay in the construction and erection of the structures / equipment or any part thereof and for the operation and maintenance of the Project / the Project Facilities and Services in accordance with the provisions of this Agreement.



  
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h) Condition Survey:

- i) The Licensee agrees that at least six months prior to the expiry, by efflux of time, of the License Period it shall, cause to be conducted at its cost by an Expert, a condition survey and an inventory of the entire Project Facilities and Services. If, as a result of such survey, the Expert shall observe/notice that the Licensor's Assets and/or the Project Facilities and Services or any part thereof have/has not been operated and maintained in accordance with the requirements therefore under this Agreement (normal wear and tear excepted) the Licensee shall, at its cost and expenses, take all necessary steps to put the same in good working condition well before the Transfer Date. In the event the Licensee fails to comply with this provision, the Licensor may itself cause the condition survey and inventory of the Licensor's Assets and Project Facilities and Services to be conducted and remove any defect or deficiency. The Licensor shall be promptly reimbursed by the Licensee for the costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities and Services in a good working condition.
- ii) The Licensee shall as security for performance of its obligations in the preceding Sub-article (i) provide / submit to the Licensor a guarantee issued by a scheduled bank / Public Financial Institution in India a sum of Rs.50 Millions (Rupees Fifty Millions Only) at least 2 years prior to the expiry of the License period. In the event of Licensee's failure to provide such guarantee, the same shall be deemed to be a Licensee Event of Default and the Licensor shall accordingly be entitled to terminate this Agreement in accordance with Article 10.
- iii) The Licensee can have a condition survey of the licensor's assets at his cost before taking over.

7.2 Of the Licensor:a) Assistance in obtaining Approvals, Permits and Licenses

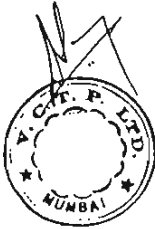
The Licensor shall, at the request of the Licensee, but without guarantees and/or without assuming any responsibility in that behalf, issue recommendatory letters and make best efforts to assist the Licensee in obtaining all the Applicable Permits including renewals thereof provided that nothing contained in this Article shall relieve the Licensee of its obligations under this Agreement to obtain the Applicable Permits and to keep them in force and effect throughout the License Period.

b) Taxes, Duties, etc.

Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of / in respect of Licensor's Assets payable to the State Government or any statutory authority shall be met and paid by the Licensor.

c) Tax Benefits

In cases found appropriate the Licensor may, at the request of the Licensee, issue recommendatory or supporting letters to any Government Authority recommending any permissible tax or duty concessions / benefits to the Licensee / the Project.



*[Signature]*  
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d) Additional Facilities

The Licensor shall not commission any additional facility for handling container cargo either on its own or through any other Person until the average volume of cargo handled at the Project Facilities and Services reaches a level of 100% for a continuous period of three years.

7.3 Of the Licensor and the Licensee:a) Compliance with Laws and Regulations

The parties shall perform their respective obligations under this Agreement in accordance with the Applicable Laws.

b) Rights to Documentsi) Licensor Documents

Documents and computer programs or copies thereof, if any, provided by the Licensor to the Licensee, shall always remain the property of the Licensor. Such Documents, computer programs and/or copies shall not be used by the Licensee for the purpose other than for the Project. Such Documents, computer programs and/or copies thereof shall, unless otherwise agreed upon by the Licensor, be returned by the Licensee to the Licensor on the Transfer Date.

ii) Licensee Documents

Documents and computer programs provided by the Licensee or which are developed (and owned by the Licensee) for operation and/or maintenance of the Project / the Project Facilities and Services shall be handed over by the Licensee to the Licensor free of cost on the Transfer Date.

iii) Confidentiality

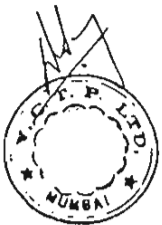
All confidential information and documents (whether financial, technical or otherwise) provided by either party to the other shall not, unless compelled by law or the process of a Government Authority, be disclosed to any Person without the consent of the other Party. This covenant shall survive the License Period.

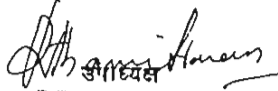
iv) Obligation to Co-operate

The Parties shall mutually co-operate with each other in order to achieve the objectives of this Agreement.

ARTICLE 8CHANGE IN LAW8.1 Change in Law:

"Change in Law" means any of the following events which has a Material Adverse Effect.



  
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- a) adoption, promulgation, modification, re-interpretation or repeal after the date of this Agreement by any Government Authority of any statute, rule, regulation, order, treaty, convention, directive, guideline, policy or
- b) the imposition by any Government Authority of any material condition (other than a condition which has been imposed as a consequence of a violation by the Licensee of any Applicable Permit) in connection with the issuance, renewal or modification of any Applicable Permits after the date of this Agreement which renders the performance by the Licensee of any of the terms of this Agreement impossible or unviable.
- c) any Applicable Permit previously granted, ceasing to remain in full force and effect for reasons other than breach/violation by or the negligence of the Licensee or if granted for a limited period, being renewed on terms different from those previously stipulated.

Provided nothing contained in this Article 8.1 shall be deemed to mean or construe any increase in taxes, duties, cess and the like effected from time to time by any Government Authority, as Change in Law.

#### 8.2 The Licensee's Remedy:

In the event of Change in Law, the Licensee may propose to the Licensor, modifications to the relevant terms of this Agreement which are reasonable and intended to mitigate the effect of the Change in Law. Thereupon, the Parties shall, in good faith, negotiate and agree upon suitable changes in the terms of this Agreement, including extension of the License Period, so as to place the Licensee in substantially the same legal, commercial and economic position as it were prior to such Change in Law. Provided however, that if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance in accordance with the provisions hereof, the Change in Law shall be deemed to be a Governmental Action, whereupon the provisions of Article 14.4 shall apply.

### ARTICLE 9

#### FORCE MAJEURE

##### 9.1 Force Majeure Event:

Force Majeure Event shall mean any event or circumstance or a combination of events and circumstances set out hereunder or the consequence(s) thereof which materially and adversely affect the party claiming force majeure ("Affected Party") from performing its obligations in whole or in part under this Agreement.

- a) Acts of God, storm, cyclone, hurricane, flood, landslide, volcanic eruption or fire (to the extent originating from a source external to the Project) affecting the construction or operation of the Project / the Project Facilities and Services.
- b) Radioactive contamination, ionizing radiation.
- c) Epidemic, famine.



  
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- d) Strikes, boycotts or other forms of labour unrest interrupting supplies and services and the calling of vessels at the Port (excluding strikes or boycotts by employees, agents or representatives of an Affected Party, or its Contractor or attributable to any act or omission of any of them)
- e) Any failure or delay in performance by the Contractor, but only to the extent caused by another Force Majeure Event.
- f) Late delivery of machinery, equipment, material, spare parts or consumables for the Project but only to the extent caused by another Force Majeure Event.
- g) An act of war (Whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, rebellion, insurrection, terrorist or military action, nuclear blast / explosion, politically motivated sabotage or civil commotion.

#### 9.2 Notice of Force Majeure Event:


- a) The Affected Party shall give notice to the other Party in writing of the occurrence of any of the Force Majeure Event ("the Notice") as soon as the same arises or as soon as reasonably practicable and in any event within **7 (seven) days** after the Affected Party knew, or ought reasonably to have known, of its occurrence and the adverse effect it has or is likely to have on the performance of its obligations under this Agreement.
- b) The Notice shall inter-alia include full particulars of:
  - i) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof
  - ii) the duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party's ability to perform its obligations or any of them under this Agreement.
  - iii) the measures which the Affected Party has taken or proposes to take, to alleviate the impact of the Force Majeure Event or to mitigate the damage and
  - iv) any other relevant information.
- c) So long as the Affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Party with periodic (fortnightly/monthly) written reports containing the information called for by **Article 9.2(b)** and such other information as the other party may reasonably request.

#### 9.3 Period of Force Majeure:

Period of Force Majeure shall mean the period from the time of occurrence specified in the notice given by the Affected Party in respect of the Force Majeure Event until the earlier of,

- a) expiry of the period during which the Affected Party is excused from performance of its obligations in accordance with **Article 9.4**; or



  
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b) termination of this Agreement pursuant to Article 9.7 hereof

**9.4 Performance Excused:**

The Affected Party, to the extent rendered unable to perform its obligations or part thereof under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of the obligations provided that the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Provided further, nothing contained herein shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

**9.5 Resumption of Performance:**

During the Period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the Performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

**9.6 Costs, Revised Timetable:**

a) Costs

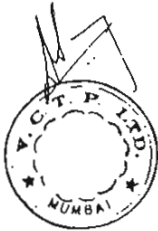
Each Party shall bear its costs, if any, incurred as a consequence of the Force Majeure Event.

b) Extension of time/period

The Affected Party shall be granted by the other Party, extension of time specified in this Agreement for the performance of any obligation by such period not exceeding the period during which the relative performance was affected by the Force Majeure Event. Such extension may include extension of the License Period by the Licensor in appropriate cases.

**9.7 Termination Due to Force Majeure Event:**

If the period of Force Majeure continues or is in the reasonable judgment of the Parties is likely to continue beyond a period of 120 Days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 days, be entitled to terminate the Agreement in which event, the provisions of Article 11 and 12 shall, to the extent expressly made applicable, apply.



*Abhimanyu*  
 उपाध्यक्ष  
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ARTICLE 10EVENTS OF DEFAULT10.1 Events of Default:

Event of Default means the Licensee Event of Default or the Licensor Event of Default or both as the context may admit or require.

a) The Licensee Event of Default:

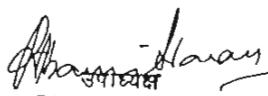
The Licensee Event of Default means any of the following events unless such an event has occurred as a consequence of the Licensor Event of Default or a Force Majeure Event:

- i) the Licensee's failure to perform or discharge any of its obligations in accordance with the provisions of this Agreement.
- ii) the Licensee's failure to perform or discharge any of its obligations under any other Transaction Documents, which has or is likely to have a Material Adverse Effect.
- iii) any representation made or warranties given by the Licensee under this Agreement is found to be false or misleading.
- iv) the Licensee passing a resolution for voluntary winding up.
- v) appointment of a provisional liquidator, administrator, trustee or receiver of the whole or substantially whole of the undertaking of the Licensee by a court of competent jurisdiction in proceedings for winding up or any other legal proceedings.
- vi) levy of an execution or distraint on the Licensee's assets which has or is likely to have Material Adverse Effect and such execution or distraint remaining in force for a period exceeding 90 days
- vii) amalgamation of the Licensee with any other company or reconstruction or transfer of the whole or part of the Licensee's undertaking (other than transfer of assets in the ordinary course of business) without the Licensor's prior written approval, provided, if the amalgamated entity reconstructed entity or the transfer as the case may be, has the ability demonstrated to the satisfaction of the Licensor, to undertake, perform/discharge the obligations of the Licensee under this Agreement, necessary approval shall be granted by the Licensor.
- viii) the Licensee engaging or knowingly allowing any of its employees, agents, Contractor or representative to engage in any activity prohibited by law or which constitutes a breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.

b) The Licensor Event of Default:

- i) the Licensor's failure to perform or discharge any of its obligations in accordance with the provisions of this Agreement unless such failure has occurred as a consequence of any Licensee Event of Default or a Force Majeure Event.



  
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- ii) any representation made or warranties given by the Licensor under this Agreement is found to be false or misleading.
- iii) appointment of a provisional liquidator, administrator or receiver of the whole or part of the Licensor's Assets in any legal proceedings initiated against the Licensor.
- iv) Levy of an execution or distrain on the Licensor's Assets in any proceedings against the Licensor which has or is likely to have Material Adverse Effect and such execution or distrain remaining in force for a period exceeding 90 days.

#### 10.2 Parties' Rights:

- a) Upon the occurrence of the Licensee's Event of Default, the Licensor shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.
- b) Upon the occurrence of the Licensor's Event of Default, the Licensee shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.

Provided that before proceeding to terminate this Agreement, the Party entitled to do so shall give due consideration and shall have due regard to the nature of the underlying Event of Default, its implication on the performance of the respective obligations of Parties under this Agreement and the circumstances in which the same has occurred.

#### 10.3 Consultation Notice:

Either Party exercising its right under Article 10.2 shall issue to the other Party a consultation notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties and the Lenders to consider possible measures of curing or otherwise dealing with the underlying Event of Default.

#### 10.4 Remedial Process:

Following the issue of Consultation Notice by either Party, within a period not exceeding 90 days or such extended period as they may agree (Remedial Period) the parties shall, in consultation with the Lenders, endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying Event of Default. Without prejudice to this, if the underlying event is a Licensee Event of Default, the Parties shall in consultation with the Lenders endeavour to arrive at an agreement as to one or more of the following measures and/or such other measures as may be considered appropriate by them in the attendant circumstances.

- a) the change of management or control/ownership of the Licensee;
- b) the replacement of the Licensee by a new operator ("Potential Licensee") proposed by either of them or the Lenders and the specific terms and conditions of such replacement which shall include.



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- i) the criteria for selection of the Potential Licensee,
- ii) the transfer of rights and obligations of the Licensee surviving under this Agreement to the Potential Licensee.
- iii) handing over / transfer of the Licensor's Assets and the Project Facilities and Services to the Potential Licensee,
- iv) assumption by the Potential Licensee of the outstanding obligations of the Licensee under the Financing Documents and preserving Lenders' charge on the Licensee's assets,
- v) assumption by the Potential Licensee of any amounts due to the Licensor from the Licensee under this Agreement,
- vi) Payment of consideration for the Licensee's assets comprised in the Project Facilities and Services and the manner of appropriation thereof.

#### 10.5 Obligations during Remedial Period:

During the Remedial Period, the Parties shall continue to perform their respective obligations under this Agreement which can be performed, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

#### 10.6 Revocation of Consultation Notice:

If during the Remedial Period the underlying Event of Default is cured or waived or the Parties and the Lenders agree upon any of the measures set out in Article 10.4, the Consultation Notice shall be withdrawn by the Party who has issued the same.

#### 10.7 Termination due to Events of Default:

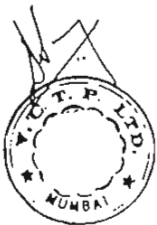
If before the expiry of the Remedial Period, the underlying Event of Default is neither cured nor waived nor the parties and the Lenders have agreed upon any of the measures in accordance with Article 10.4, the Party who has issued the Consultation Notice shall have the right to terminate this Agreement, in which event, the provisions of Article 11 and 12 shall, to the extent expressly made applicable, apply

### ARTICLE 11

#### TERMINATION OF THE LICENSE / AGREEMENT

##### 11.1 Termination Procedure:

The party entitled to terminate this Agreement either on account of a Force Majeure Event or on account of an Event of Default shall do so by issue of a notice in writing (Termination Notice) to the other party and simultaneously deliver a copy thereof to the Lenders. The Termination Notice shall be of not less than 90 days and not ordinarily be more than 180 days, (Termination Period) and at the expiry of the Termination Period, this Agreement shall stand terminated.



*Altham Khan*  
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## 11.2 Obligations during Termination Period:

During Termination Period, the Parties shall subject, wherever applicable, to the provisions of Article 9, continue to perform such of their respective obligations under this Agreement which are capable of being performed with the object, as far as possible, of ensuring continued availability of the Project Facilities and Services to the Users, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach

## 11.3 Requisition:

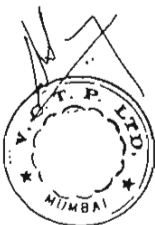
Upon issue or receipt as the case may be of Termination Notice, either as a consequence of a Force Majeure Event or as a consequence of an Event of Default, the Licensor shall by a notice in writing (Requisition) call upon the Licensee to furnish the following information to enable the Licensor to estimate the likely compensation payable by the Licensor to the Licensee and / or to finalise the items of Licensee's assets comprised in the Project Facilities and Services to be handed over to / taken over by the Licensor.

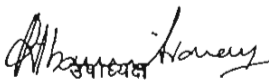
- a) the particulars of Debt Due supported by Lenders' certificate;
- b) data or records (to be specified by Licensor) regarding the operation and maintenance of the Project Facilities and Services; and
- c) any other information or records (to be specified by Licensor) regarding Licensee, its business, assets and liabilities

The Licensee shall within a period of 30 days of receipt of Requisition furnish the particulars called for by the Licensor.

## 11.4 Condition Survey:

- a) The Licensee agrees that on the service of a Termination Notice, it shall conduct or cause to be conducted under the Licensor's supervision, a condition survey of the Project Facilities and Services including the Licensor's Assets to ascertain the condition thereof, verifying compliance with the Licensee's obligations under this Agreement and to prepare an inventory of the assets comprised in the project facilities and services.
- b) If, a result of the condition survey, the Licensor shall observe / notice that the Licensor's Assets and / or the Project Facilities and Services or any part thereof have / has not been operated and maintained in accordance with the requirements therefore under this Agreement (normal wear and tear excepted) the Licensee shall, at its cost and expenses, take all necessary steps to put the same in good working conditions well before the Transfer Date.
- c) In the event the Licensee fails to comply with the provisions of this Agreement, the Licensor may itself cause the condition survey and inventory of Licensor's Assets and the Project Facilities and Services to be conducted. The Licensor shall be compensated by the Licensee for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project Facilities and Services in good working condition.



  
 DY. CHAIRMAN  
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 Visakhapatnam Port Trust  
 VISAKHAPATNAM-530 035

### 11.5 Consequences of Termination:

Without prejudice to any other consequences or requirements under this Agreement or under any law, the following consequences shall follow upon expiry of the License Period by efflux of time or due to a Force Majeure Event or an Event of Default.

#### a) Transfer of Assets:

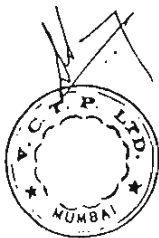
- i) On the Transfer Date, the Licensee shall subject to the provisions of this Agreement:
  - a) Hand over / surrender vacant and peaceful possession of the Licensor's Assets to the Licensor free of cost.
  - b) transfer all its rights, titles and interest in or over the tangible assets comprised in the Project Facilities and Services (including movable assets which the Licensor agrees to take over) to the Licensor and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.
- ii) On the Transfer date, the Licensor shall subject to the provision of this Agreement, pay to the Licensee the compensation / Terminal Value as the case may be in accordance with the Provisions of Article 12.
- iii) The Licensor and the Licensee shall at least five Months prior to the expiry of the License Period or upon commencement of Termination Period as the case may be, promptly agree upon the modalities and take all necessary steps to complete the aforesaid process of transfer of assets and payment of Terminal Value/ compensation as the case may be on the Transfer Date. During this period, the designated key personnel of the Licensor shall be associated with the operations of the Project Facilities and Services (except when the same is impossible due to a Force Majeure Event) in order to facilitate smooth take over of the same by the Licensor on the Transfer date.


#### b) Project Contracts:

The Licensee shall at the cost of the Licensor Transfer/assign such of the Project Contracts which the Licensor may require to be transferred in its favour subject to the counter parties to such contracts consenting to such transfer / assignment. The Licensee shall entirely at its cost, terminate all such Project Contracts which are not transferred/assigned to the Licensor provided, if the termination is on account of the Licensor Event of Default the Licensor shall compensate the Licensee to the extent of the termination payments, if any, made or to be made by the Licensee to the counter parties to such contracts.

#### c) Applicable Permits:

The Licensee shall, at its cost, transfer to the Licensor all such Applicable Permits which the Licensor may require and which can be legally transferred. Provided if the termination is on account of Licensor Event of Default the cost of such transfer shall be borne/reimbursed by the Licensor.



  
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 VISAKHAPATNAM-530 035

d) Guarantees:

The Licensor shall be entitled to encash any subsisting bank Guarantee(s) provided by the Licensee, if the termination is on account of a Licensee Event of Default.

**ARTICLE 12****COMPENSATION / TERMINAL VALUE****12.1 Compensation:****a) Termination due to Force Majeure Event :**

If the termination is due to a Force Majeure Event, compensation payable to the Licensee shall be the aggregate fair value, as determined by the Expert being a reputed valuer, of (i) the tangible assets forming part of, fixed or attached to the ground created, installed or provided by the Licensee and comprised in Project Facilities and Services including cargo handling equipments, which in the reasonable judgment of the said Expert are capable of being put to use/utilised by the Licensor and (ii) the movable assets which the Licensor agrees to take over, LESS any amount due to the Licensor from the Licensee under this Agreement.

Provided that the compensation shall in no event include the value of the portion of any asset affected by Force Majeure Event, to the extent of the insurance claim received or admitted.

**b) Termination due to Licensee Event of Default:**

If the termination is due to a Licensee Event of Default, the compensation payable by the Licensor to the Licensee shall be the lower of:

- (i) the aggregate fair value, as determined by the Expert being a reputed valuer, of (a) tangible assets forming part of, fixed or attached to the ground created, installed or provided by the Licensee and comprised in the Project Facilities and Services including the Cargo handling equipment, and (b) the movable assets which the Licensor agrees to take over, LESS amounts if any due to the Licensor from the Licensee under the Provisions of this Agreement and;

- (ii) The Debt Due:

**c) Termination due to Licensor Event of Default:**

If the termination is due to a Licensor Event of Default, the compensation payable by the Licensor shall be the aggregate of the Debt Due and the fair value as determined by an independent Expert (on the basis that the Licensee is a going concern but limited to the unexhausted / unexpired Licensee Period), of the aggregate equity shares of the Licensee, LESS amounts if any due to the Licensor from the Licensee under the provisions of this Agreement.



*Atanithan*  
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**12.2 Terminal Value:**

In the event of expiry of License by efflux of time (the Licensee having run its full course), the Licensee shall hand over / transfer the vacant possession of the Project Facilities and Services upon payment by the Licensor therefore, a sum equal to the fair value (Terminal Value) as assessed by the independent expert. Less amounts, if any, due to the Licensor from the Licensee under this Agreement

The independent expert will be appointed by the Licensor and the fee will be paid by the Licensor and the same will be recovered from the Licensee.

**12.3 Payment of Compensation / Terminal Value to Lenders:**

The Licensee hereby irrevocably authorises the Licensor to pay to the Lenders or at their instruction to any designated bank account in India the compensation / Terminal Value payable to the Licensee. The Licensee confirms that upon such payment being made, the Licensor shall stand duly discharged of its obligations regarding payment of compensation/Terminal Value under this Agreement and the charge created by the Licensee in favour of the Lenders on any of its assets taken over by the Licensor shall stand satisfied and all such assets shall on and from the Transfer Date be free from such charge. The Licensee further confirms that payment of compensation / Terminal Value by Licensor in accordance with this Article 12.3 shall be a valid discharge to the Licensor in respect of Licensor's obligation regarding payment of compensation / Terminal Value to the Licensee under this Agreement.

Provided notwithstanding anything inconsistent contained in this Agreement, the Licensee / the Lenders as the case may be shall be entitled to remove at its their cost all such movable which are not taken over by the Licensor and to deal with the same in accordance with their respective rights under law

Provided, further, if there are no amounts outstanding under the Financing Documents and a Certificate to that effect issued by the Lenders is furnished by the Licensee to the Licensor, the compensation/terminal value shall be paid by the Licensor to the Licensee directly.

**12.4 Compensation towards delayed payment /Terminal Value**

If for any reasons, other than those attributable to the Licensee, the Licensor fails to pay the Terminal value or compensation as the case may be on the Transfer Date, the Licensor shall be liable to pay interest at 2% per month thereon from the Transfer Date till payment thereof. Provided, nothing contained in this Article shall be deemed to authorize any delay in payment of compensation / terminal value in accordance with the Agreement.

**12.5 Delayed Transfer of Assets:**

If for any reasons other than those attributable to the Licensor the Licensee fails to transfer assets, rights and contracts on the Transfer Date in accordance with Article 11.5 read with Article 13, there shall be no suspension of the operation and maintenance of the Project Facilities and Services and the Licensee shall, as agent of the Licensor (A) continue to operate and maintain the Project Facilities and Services until completion of the relative transfer formalities and (b) account for and pay to the Licensor the revenue net of operating costs and statutory dues, from such operations. In



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the event of failure to do so, the Licensee shall be liable to pay to the Licensor, for every day of delay, liquidated damages computed at the rate of the average daily after tax profits earned during the three years immediately preceding the Transfer Date. Provided nothing contained in this Article 12.5 shall be deemed or construed to authorise delay in transfer of assets, rights and contract by the Licensee to the Licensor in accordance with the requirements thereof under this Agreement.

In case the transfer of assets by the Licensee to the Licensor is delayed for reasons attributable to the Licensor, the Licensee shall nonetheless continue to operate the Project Facilities and Services but as agent of the Licensor. Provided however, the Licensee shall not be liable to pay any liquidated damages and shall continue to share the gross revenue from the operational the same percentage as mentioned in Article 5.1.

#### 12.6 Remedies Cumulative:

The exercise or right by either Party to terminate this Agreement, as provided herein, shall not preclude, such Party from availing any other rights or remedies that may be available to it under law. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

### ARTICLE 13

#### TRANSFER ON EXPIRY OF THE LICENSE PERIOD

##### 13.1 General Scope of Transfer/Payment:

The Parties shall perform/discharge their respective obligations to be performed or discharged under the provisions of this Agreement on the Transfer Date in entirety and unless otherwise provided in the Agreement, the cost involved in transfer contemplated shall be shared by the respective parties. Without prejudice to the generality of this provision, the transactions to be consummated and the formalities to be completed by the Parties on the Transfer Date shall be as set out in Article 13.2 and 13.3.

##### 13.2 Licensee's Obligations:

The Licensee shall;

- a) hand over vacant and peaceful possession of the Licensor's Assets to the Licensor free of cost.
- b) transfer all its rights titles and interests in the assets comprised in the Project Facilities and Services which are required to be transferred to the Licensor in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.
- c) hand over to the Licensor all documents including as build drawings, manuals and records relating to operation and maintenance of the Project Facilities and Services.



*Mani Haray*  
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- d) transfer technology and up-to-date know-how relating to operation and maintenance of the Licensor's Assets and/or the Project Facilities and Services. The scope of transfer shall be as set out in Appendix-20.
- e) transfer or cause to be transferred to the Licensor any Project Contracts which are (i) valid and subsisting (ii) capable of being transferred to the Licensor and (iii) thus the Licensor has chose to take over, and cancel or cause to be cancelled such Project Contracts not transferred to the Licensor
- f) at its cost remove from the Licensor's Assets all such movable assets which are not taken over by or transferred to the Licensor.

### 13.3. Licensor's Obligations:

The Licensor shall pay compensation/Terminal Value payable to the Licensee in accordance with the provisions of this Agreement to the Lenders, or at their instructions, to any designated bank account in India, or to the Licensee, as the case may be.

### 13.4 Risk:

Until transfer in accordance with this Article 13, the Licensor's Assets and the Project Facilities and Services shall remain at the sole risk of the Licensee except for any loss or damage caused to or suffered by the Licensee due to any act or omission or negligence on the part of the Licensor under this Agreement.

## ARTICLE 14

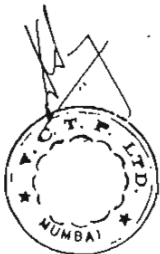
### EARLY DETERMINATION

#### 14.1 Early Determination by Licensor:

Notwithstanding that none of the events specified in Article 9 or Article 10 has occurred or that the Licensee has been discharging its obligations in accordance with this Agreement, the Licensor shall subject to the provisions of the following Articles 14.2 and 14.3 have the right to determine the License/ this Agreement earlier than the License Period specified in Article 2.2 ("Early Determination") for reasons of national security, national emergency or general public interest.

#### 14.2 Notice of Early Determination:

The Licensor shall issue a written notice of not less than 2 Months of the intended Early Determination to the Licensee specifying therein in reasonable detail the reasons for the Early Determination and expressing its readiness to take over whole of the Licensee's undertaking in accordance with the provisions of Article 14.3.



*Shamika Ray*  
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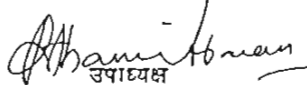
#### 14.3 Take over of Assets and Liabilities:

- a) On or before the expiry of the period of notice of intended Early Determination issued by the Licensor pursuant to Article 14.2, the Licensor shall pay for and acquire the whole of the undertaking assets and liabilities) of the Licensee at a price equal to the aggregate of (i) the fair value as determined by an independent Expert (on the basis that the Licensee is a going concern but limited to the unexhausted / unexpired License Period) of the aggregate equity shares of the Licensee and (ii) the termination payments, if any, payable by the Licensee to the counter parties to the Project Contracts LESS amounts if any, due to the Licensor from Licensee under this Agreement.
- b) The payment to the Lenders of the amount of the Debt Due (pursuant to take-over of liabilities) and to the Licensee of the price determined by the independent Expert in accordance with the preceding clause (a) shall be made simultaneously on or before the expiry of the period of notice of intended Early Determination. It shall however be open to the Licensor to enter into any other arrangement with the Lenders for payment of the Debt Due on mutually agreed terms.
- c) Simultaneously with the payment as aforesaid by the Licensor, the Licensee shall hand over / transfer vacant and peaceful possession of Licensor's Assets and the Project Facilities and Services. The Licensee shall also (i) deliver to the Licensor the documents, manuals and records referred to in Article 13.2 (c), (ii) transfer technology and up-to-date know-how as per Article 13.2 (d) and (iii) transfer / cause to be transferred Project Contracts in accordance with Article 13.2 (e) and comply with all the formalities in connection therewith. The cost of such transfer shall be borne by the Licensor.

#### 14.4 Early Determination due to Governmental Action:

- a) If due to any governmental action including but not limited to expropriation or nationalisation of the Project / Project Facility ("Governmental Action"), this Agreement is frustrated or rendered illegal or impossible of being performed in accordance with the provisions hereof, this Agreement shall be deemed to be determined on and from the date the Governmental Action is implemented, enforced or given effect to.
- b) Upon determination of this Agreement pursuant to the preceding sub article (a), the Licensee shall be entitled to receive from the Licensor compensation as provided in Article 12.1(c). Such compensation shall be paid to the Licensee within 90 days from the date this Agreement is deemed to be determined. The provisions of Articles 12.3 and 12.4 shall to the extent relevant apply to the compensation payable by the Licensor to the Licensee pursuant to this sub-article (b).
- c) Upon payment of compensation to the Licensee in accordance with the provisions of the preceding sub article (b), the Licensor shall be entitled to receive from the government the compensation if any, awarded by the government consequent to Governmental Action and to appropriate the same



  
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ARTICLE 15DISPUTE RESOLUTION15.1 Amicable Settlement:

If any dispute or difference or claims of any kind arises between the Licensor and the Licensee in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any party under this Agreement, whether before or after the termination of this Agreement, then the Parties shall meet together promptly, at the request of any Party in an effort to resolve such dispute, difference or claim by discussion between them.

15.2 Assistance of Expert:

The Parties may, in appropriate cases agree to refer the matter to an Expert appointed by them with mutual consent. The Parties agree to abide by the decision / opinion of the Expert. The cost of obtaining the service of the Expert shall be shared equally.

15.3 Arbitration:a) Arbitrators:

Failing amicable settlement and/or settlement with the assistance of Expert, 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. 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. If the other Party fails to appoint its Arbitrator, the Party appointing the Arbitrator shall take steps in accordance with Arbitration and Conciliation Act, 1996.

b) Place of Arbitration:

The place of arbitration shall be the headquarters of the Licensor in India.


c) English Language:

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

d) Procedure:

The procedure to be followed within the arbitration, including appointment of arbitrator / arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996.



  
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e) Enforcement of Award:

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto hereby waive, to the extent permitted by law, any rights to appeal or to review of such award by any court or tribunal. 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 judgement upon the arbitral award may be entered in any court having jurisdiction thereof.

f) Fees and Expenses:

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the prevailing party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by Party.

g) Performance during Arbitration

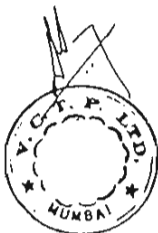
Pending the submission of and/or decision on a dispute, difference or claim or until the arbitral award is published, the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

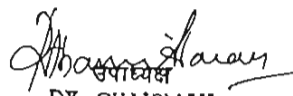
**ARTICLE 16**  
**REPRESENTATIONS AND WARRANTIES**

16.1 Mutual Representations and Warranties:

Each Party represents and warrants to the other Party that:

- a) it is duly organised, validly existing and in good standing under the laws of the jurisdiction of its incorporation / establishment,
- b) it has full power and authority to execute, deliver and perform its obligations under this Agreement.
- c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- d) this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with the terms hereof,,
- f) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affects its ability to meet or perform any of its obligations under this agreement.



  
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### 16.2 Waiver of Sovereign Immunity:

Each Party hereto unconditionally and irrevocably;

- a) agrees that the execution, delivery and performance by it of this Agreement and all other Agreements, contracts, documents and writings relating to this Agreement constitute private and commercial acts and not public or governmental acts,
- b) agrees that should any proceedings be brought against it or its assets, other than the assets protected by the diplomatic and consular privileges under the Foreign Sovereign Immunities Act or any analogous legislation ("Exempted Assets") in any jurisdiction, in relation to this Agreement or any transaction contemplated by this Agreement, no immunity, sovereign or otherwise from such proceedings, execution, attachment or other legal process shall be claimed by or on behalf of itself or with respect to any of its assets (other than the Exempted Assets).
- c) consents generally in respect of the enforcement of any judgement against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings including without limitation the making, enforcement or execution against or in respect of any property irrespective of its use subject to (b) above.

### 16.3 Recognition of Lenders' Rights

The Parties recognise and acknowledge that the Lenders while considering Financial Assistance would rely on the provisions of this Agreement in particular those which are intended to confer certain interests and benefits on them in consideration of their providing Financial Assistance. Accordingly, the Lenders are deemed to be beneficiaries under this Agreement. In any legal / arbitral proceedings involving any issue the outcome whereof is likely to affect their interests / benefits, the Lenders shall at their option, be deemed to be necessary parties.

## ARTICLE 17

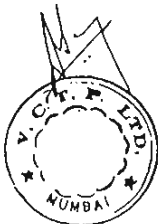
### MISCELLANEOUS PROVISIONS

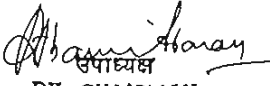
#### 17.1 Datum:

The datum to which all levels shall be referred for the purpose of the Project is the Chart Datum (0 000) which is 0.80 m below mean sea level.

#### 17.2 Survival of Obligations:

Any cause or action which may have occurred in favour of either party or any right which is vested in either party under any of the provisions of this Agreement during the License Period as the case may be as a result of any act, omission, deed, matter or thing done or omitted to be done by either party before the expiry of the License Period by efflux of time or otherwise in accordance with the provision of this Agreement shall survive the expiry of the License Period / termination of this Agreement.



  
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 VISAKHAPATNAM-530039

### 17.3 Articles to survive Termination:

The provisions of Articles 11 to 16 shall, to the fullest extent necessary to give effect thereto, survive the License Period / the termination of this Agreement and the obligations of parties to be performed / discharged following the termination / early determination of this Agreement shall accordingly be performed / discharged by the Parties.

### 17.4 Joint Responsibility:

In the event that any damage is caused in part only due to the negligence or default or omission on the part of the Licensor and in part only due to the negligence or default or omission on the part of the Licensee. Each Party shall be liable to the other Party only in proportion to its respective degree of negligence or default or omission as the case may be.

### 17.5 Several Obligations:

Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency or joint venture among the Parties and Parties shall be liable to perform their respective duties and discharge their respective liabilities or obligations in accordance with the Provisions of this Agreement

### 17.6 Separability

If for any reason whatsoever any provision or any part(s) of this Agreement is held or shall be declared to be void or illegal or invalid under present or future laws or regulations effective and applicable during the License Period, by any competent arbitral tribunal or court, such provisions shall be constructed as if such provision or such part(s) of this Agreement never comprised part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such void or illegal or invalid provision or by its severance from this Agreement

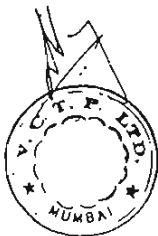
### 17.7 Notices:

Unless otherwise stated, notice to be given under this Agreement including but not limited to a notice of waiver of any term or related or breach of any term of this Agreement shall be in writing and shall be given by hand delivery, recognised international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below.

The Licensor

CHAIRMAN,  
VISAKHAPATNAM PORT TRUST,  
VISAKHAPATNAM - 530 035,  
ANDHRA PRADESH, INDIA.

FAX: 0891-565023.



*Abhinav Barua*  
उत्तरा  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530 035

The Licensee

THE MANAGING DIRECTOR  
M/s. VISAKHA CONTAINER TERMINAL (P) LTD.,  
29, BANK STREET, FORT,  
MUMBAI-400 001

FAX:

or such other address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognised international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

**17.8 Waiver:**

No waiver of any term or condition or of the breach thereof by any Party shall be valid unless expressed in writing and signed by such Party and communicated by such party to the other party in accordance with the provisions of Article 17.7 of this Agreement. A waiver by any Party of any term or condition or breach thereof in a given case shall not be deemed or construed as a general waiver of such term or condition or the breach in the future or waiver of any other terms or conditions or breach of this Agreement.

**17.9 Amendments, Modifications, etc.:**

No amendments, modifications or alterations of or any additions to the terms and conditions of this Agreement shall be valid unless the same be in writing and agreed to by the Parties.



*Abanjan Havan*  
उपाध्यक्ष  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530035

17.10 Governing Law:

This Agreement shall be governed by and construed in accordance with the laws of the Republic of India

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement on the dates indicated next to their signatures below:

The Common Seal of the Licensor i.e.,  
the Board of Trustees of the Port of Visakhapatnam  
has herewith affixed and  
Mr P TAMIL VANAN  
Dy. Chairman of Visakhapatnam Port Trust  
signed in the presence of

*P. Tamilvanan*  
पी. तमिलवानन / P TAMILVANAN  
उपाध्यक्ष / Dy Chairman  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust

WITNESS

1 Signature *K. R. Ram Rao*  
Name K. RAM RAO  
मुख्य यंत्रिक अभियंता  
Address विशाखपट्टणम पोर्ट ट्रस्ट  
Chief Mechanical Engineer  
Visakhapatnam Port Trust

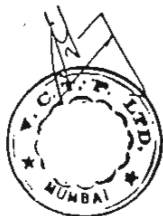
2 Signature *M. V. Gupta*  
Name के. वी. गुप्ता M. V. GUPTA  
वि.से. एव.सु.वि.अ.,  
FA & CAO  
Address विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM

Signed and Delivered by the Licensee by the hand of its  
authorised representative Mr. D. SUGANTHARAJ  
Pursuant to Resolution dated 9<sup>th</sup> September 2002 of its Board of Directors

WITNESS

1 Signature *D. Sugantharaj*  
Name D. Sugantharaj  
Address D. Sugantharaj

2 Signature *Krishna Kotak*  
Name KRISHNA KOTAK  
Address 29 BANE STREET MUMBAI.



*P. Tamilvanan*  
उपाध्यक्ष  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530 035

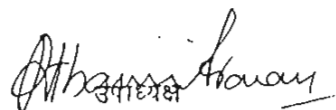


### FOOTNOTES

1. In the first page of the License Agreement in Second Para, the year of Companies Act may be suitably changed in case of Foreign Company.
2. Clause 12.1(a) - Payment of compensation equal at least to the Debt Due and a percentage of 60% of the fair value of the aggregate equity share of the Licensee may be considered. If the Force Majeure Event is the one referred to in Article 9.1(g), if considered, a proviso on the following lines may be added at the end of Article 12.1(a):

Provided that where the termination is due to any event specified in Article 9.1(g), the compensation paid shall be at least the sum of the Debt Due and 60% of the fair value of the aggregate equity shares of the Licensee as determined by an Independent Expert (on the basis that the Licensee is a going concern but limited to the unexhausted / unexpired License Period) LESS amounts, if any, due to the Licensor from the Licensee under the provisions of this Agreement.



  
 ATCHANNARAYANA  
 DY CHAIRMAN  
 విశాఖపట్నం పోర్ట్ ట్రస్ట్  
 Visakhapatnam Port Trust  
 విశాఖ పట్నం  
 VISAKHAPATNAM-530 035

## APPENDIX - I

PROJECT DESCRIPTIONGENERAL:

The following site / climatic conditions are furnished for general information and in good faith. The intending bidders are required to ascertain and acquaint themselves as may be considered necessary. If any error or deficiency in the information supplied surfaces at any time during the currency of the bidding/licence, no claim responsibility will be entertained by the Port Management.

The proposed Container Terminal is located at Outer Harbour of Visakhapatnam Port situated in East Coast of India at Latitude 17° 41' N and Longitude 83° 18' E. The Visakhapatnam Port is in the City of Visakhapatnam, Visakhapatnam District, State of Andhra Pradesh, India. The Port is functioning round the clock in 3 shifts of 8 hours each.

Visakhapatnam is well connected by broad gauge Railway to Chennai and Calcutta. It has been linked for movement of materials from North, through SIMHACHALAM NORTH Railway Station and towards South through DUVVADA Railway Station. It is also connected to National Highway No.5 by Road linkages.

SITE CONDITIONS:CLIMATE:

North-East Monsoon period is from end of November to end of February with predominantly North-Easterly winds.

Pre-monsoon period is from March to May, usually the beginning of the hottest period of the year.

South-West monsoon period is from middle of May upto middle of October.

Post-monsoon period is from the middle of October to the end of November with variable weather

WIND:

Predominant direction of wind is South-West and North-East for most of the time. Maximum wind speed recorded is 110 Kmph.

CYCLONES:

Cyclones are common to occur in the Bay of Bengal. Average number of Cyclones occurring at Visakhapatnam is 3 to 4 per year. Cyclonic storms and depressions occur with greatest frequency in August, October and November generally.



*Arth...*  
 DY CHAIRMAN  
 विशाखपट्टनम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टनम  
 VISAKHAPATNAM-530 035

**RAINFALL:**

Rainy season persists during the South-West Monsoon and also during North-East Monsoon. September and October are the wettest months of the year with an average rainfall of 167.3 and 259.3 mm respectively. Average annual rainfall is 973.6mm Average number of rainy days per annum is 50.

**SEA WATER SALINITY:**

Salinity of sea water varies from a monthly mean of about 24.4‰ to a monthly mean of 34‰

**TIDES:**

Tide levels at Visakhapatnam with reference to the Indian Naval Hydrographic Chart datum are given here under:

Height above datum	
Highest High Water recorded :	+ 2.38 m
Mean high water level spring :	+ 1.49 m
Mean high water level neap :	+ 1.08 m
Mean Sea Level :	+ 0.79 m
Mean low water level spring :	+ 0.09 m
Mean low water level neap :	+ 0.52 m
Chart Datum :	+ 0.00 m
Lowest Low Water Recorded :	- 0.55 m

**TEMPERATURE:**

Annual mean value of daily maximum and minimum temperature are 31°C and 23.5° respectively Highest recorded temperature is 46.1°C and the lowest recorded is 12.8°C.

**RELATIVE HUMIDITY:**

Annual mean value of daily relative humidity recorded varies from 72% to 76%. Highest recorded value is 81% and lowest recorded value is 64%.

**VISIBILITY:**

Visibility is generally good throughout the year. However, fog hangs over port area for a very short period during early morning hours before sunrise during winter season.

**SUB-SOIL CONDITION:**

Soil strata generally is of sandy materials with depth varying from 8 to 17M over lying rock barring a patch of rock close to the berthing face.



*(Signature)*  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530 035

WAVE DATA

Month	Day	Mon	Predominant wave direction and period in Sea
March, April, July, August, and September.	213	S.W.	S.S.E. / 11 May, June,
October, November, December, January and February.	152	N.E.	N.S.E. / 11

The frequency of occurrence of external wave of different wave heights (H<sub>5</sub>) is as follows) - 1 M = 199 days. 1-2 M = 153 days and 2-3 M = 13 days (purely Cyclone based weather).

DESCRIPTION OF MULTIPURPOSE BERTH AT OUTER HARBOUR:

The Multipurpose Berth proposed for development / establishment as a full-fledged Container Terminal is located at Outer Harbour of Visakhapatnam Port. The Berth is designed for 1,00,000 DWT Ships and is 283.00 M long, with 1.20 M dia., RCC bored Piles as sub-structure and RCC Beams and Slab Deck as super-structure. Dredging in front of the Berth is done upto -16.5 Mtrs.

BACK-UP AREA:

An area of 75,000 Sq.mtrs. is reclaimed behind the Berth for development as a backyard and out of this, 42,000 Sq.Mtrs. area is provided with concrete block pavement.

Additional area of 32,000 Sq.mtrs. is available for further pavement by the Licensee at his cost by obtaining prior approval of Visakhapatnam Port Trust Authority.

Land rentals as per applicable scale of rates for backyard area shall be paid by the Licensee to the Licensor

FOUNDATION FOR QUAY CRANES:

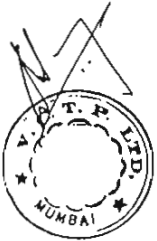
Civil works of the Berth are designed and built to lay the crane rails required for 20.00 M rail gauge Container Crane. The Licensee has to take up the required work of crane rail laying on the Berth, at his own cost, by obtaining prior approval of VPT Authority.



*Amritha Nay*  
 DY CHAIRMAN  
 विशाखपट्टनम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टनम  
 VISAKHAPATNAM-530035

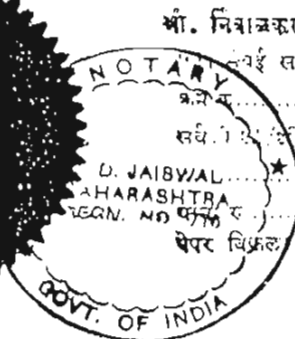
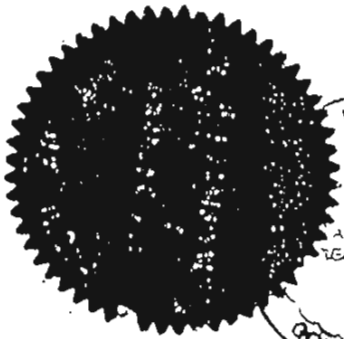
APPENDIX 2MEMORANDUM OF UNDERSTANDING

(To be furnished by the Bidder)



*Abhinav Karam*  
उपाध्यक्ष  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530035

100Rs.



श्री. निवात्रका आय. एस. एच. धारक मुद्रक लिटिंग  
76 25 JUN 2001  
सर्वोच्च न्यायालय, कोर्ट, मुंबई-400002  
U.L.A. Pvt. Ltd.

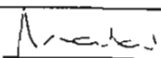
परमना धारक मुद्रक लिटिंग  
Nimborkar & S

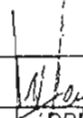
### Memorandum Of Understanding

This Memorandum of Understanding (MoU) on this 26<sup>th</sup> day of June 2001 by and between at

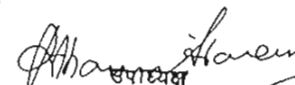
United Liners Agencies of India Pvt. Limited, a company incorporated under the Companies Act 1956 having its registered office at 17, Brabourne Road, P.O. Box. No. 2141, Kolkata - 700 001 India, (hereafter referred to as ULA which expression shall unless repugnant to the context or meaning hereof shall include the successors and assigns of the First part)


And

  
\_\_\_\_\_  
ULA

  
\_\_\_\_\_  
DPT



  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530 035

  
Dubai Port International a company constituted under the Law No. (1) of 2001 Act having its registered office at P.O. Box no. 17000, Dubai, United Arab Emirates (hereafter referred to as DPI which expression shall unless repugnant to the context or meaning hereof shall include the successors and assigns of the other part)

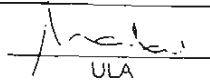
Whereas ULA is engaged inter alia in the business of ship agency stevedoring and DPI is engaged inter alia in the business of port, harbour and terminal development and operation.

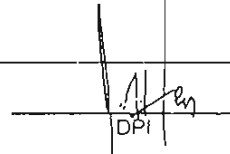
And Whereas

1. Visakhapatnam Port Trust (referred to as VPT), Visakhapatnam, Andhra Pradesh, India has issued "Bid Document" for "establishment of a container terminal and to operate, maintain and manage the same on a BOT basis, including supply / installation and operation of container handling equipment, at the multipurpose berth, in the outer harbour" (hereafter referred to as "the Project").
2. ULA a service provider in port activities and shipping agency is considering to submit a proposal for the "Bid Document" of the VPT.
3. DPI is desirous of participating in the "Bid Document" in partnership with ULA.
4. The parties believe that it would be to their mutual benefit to form a Joint Venture Company (JVC) to implement the Project.
5. The Parties are desirous of entering into a Memorandum of Understanding for the purpose of recording steps that may be taken by the parties to submit a proposal for the "Bid Document" of the VPT and to incorporate the Joint Venture Company under the provisions of the Companies Act 1956, its ownership and the management and other matters incidental thereto.

Now this Memorandum of Understanding (MoU) entered into in good faith in the spirit of mutual trust and confidence on the date and place mentioned above

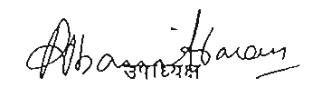
1. ULA shall prepare and, with the consent of DPI, submit a "Proposal" for the "Bid Document" to the VPT. ULA will fully take account of, and incorporate the suggestions and inputs received from DPI for the purpose. ULA and DPI shall sign the Proposal for the "Bid Document" to VPT.
2. DPI shall provide ULA matter and documents required for the bid submission as well as other valued inputs per a mutually agreed time frame.

  
ULA


  
DPI

2

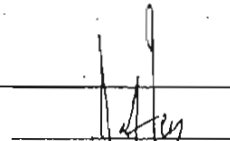


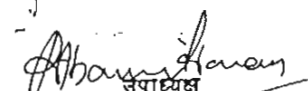
  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
[Signature]  
VISAKHAPATNAM-530 035

3. ULA shall hold discussions with VPT in connection with the "Bid Document". ULA will make additional representations if any, after obtaining the consent of DPI.
4. The Parties shall take all steps necessary to incorporate a company under the Companies Act 1956, prior to award of the License by VPT.
5. Prior to award of the License, the Parties shall endeavor, in good faith, to enter into a Joint Venture Agreement for the Joint Venture Company (JVC). The Joint Venture Agreement shall contain provisions inter alia, relating to shareholding of respective parties, management of the JVC, directors, transfer of shares, capital structure, business of the JVC, dispute resolution including deadlock resolution, termination etc.
6. The Board of Directors of the JVC shall initially comprise four members or as may be agreed between the Parties hereto in the Joint Venture Agreement. It is the broad understanding that in the event of a four-person board ULA will nominate three directors on the Board of JVC and DPI shall nominate one director on the Board of Directors of the JVC. In the event an additional investor partner is co-opted into the JVC, ULA shall offer seat(s) from its quota on the Board to the said investor partner.
7. The shareholding of the parties shall be such as may be agreed between the Parties. It is the broad understanding that ULA will hold up to 74% of the equity capital of the JVC of which, ULA shall hold not less than 26% of the equity capital of the JVC for a period of at least three years from the "Date of Commercial Operation" (COD). DPI shall hold 26% of the equity capital of the JVC for a period of at least three years from the "Date of Commercial Operation".
8. In the event DPI decides to continue its participation in the JVC on expiry of three years from COD, it shall continue do so on the basis of the terms of the Joint Venture Agreement.
9. In the event DPI decides to exit from the JVC it shall do so per the exit provision to be incorporated in the Joint Venture Agreement. The said provision shall in principle be based on the following i.e.
- DPI shall sell its stake only to ULA or a ULA nominee.
  - DPI's stake shall be purchased by ULA at a value determined by a mutually acceptable independent valuer, or on the basis of a mutually agreed appreciation rate.

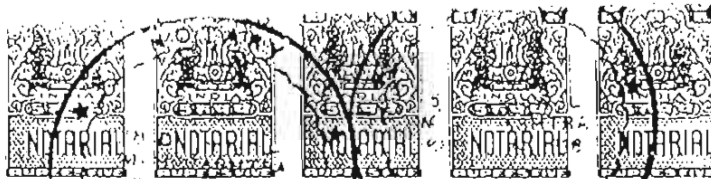
  
\_\_\_\_\_  
ULA



  
\_\_\_\_\_  
DPI

  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM-530 035





10. All expenses towards the preparation of the proposal for the "Bid Document" tender including the provision of the earnest money deposit shall be borne by ULA. All other expenses incurred by either party to fulfill their own/respective obligations under this MoU shall be borne by each party respectively.
11. No Party to this MoU shall be entitled to claim any damages or compensation or loss of profit from the other Party for any failure of this MoU. This MoU does not create or confer any rights or obligations to either party.
12. All information / documents exchanged between ULA and DPI including the terms of the MoU / Joint Venture Agreement / Proposal for the "Bid Document" in relation to the Visakhapatnam Port Tender shall be treated in strict confidence by both Parties and shall not be revealed to any third party unless the information so exchanged originated in the public domain or a Party is required to do so to comply with Government regulations.
13. The terms of the MoU shall be modified only by mutual consent and in writing by parties.
14. This MoU shall remain valid for the period of the validity of the Proposal submitted for the "Bid Document" of the VPT or as extended by mutual consent of both Parties. This MoU shall be superseded by the Joint Venture Agreement/ on JVC formation.
15. Throughout the life of the Project, no company with interests in port management other than ULA and DPI shall be allowed to hold equity capital of the JVC, unless mutually agreed by the ULA and DPI.

IN WITNESS WHEREOF THE PARTIES have caused this MoU to be authorised by their duly authorised representatives on the date and place first mentioned above.

For and on behalf of ULA

*[Signature]*

Witness :

*[Signature]*  
(P. D. CHAKRABARTY)

Place : MUMBAI

Date : 26/6/01

For and on behalf of DPI

*[Signature]*

Witness :

*[Signature]*  
(RAMSARANAYAK)

Place : MUMBAI

Date : 26/6/01

ATTESTED

*[Signature]* 26/6/2001

B. D. JAISWAL

ADVOCATE HIGH COURT &  
NOTARY, GOVT. OF INDIA  
22, SAI LEELA, KARLASHI MARG,  
DOMBIVLI (W) 421 209  
DIST THANE (MAHARASHTRA)

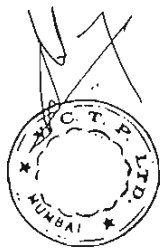


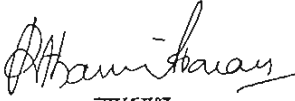
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उपाध्यक्ष  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM - 530003

APPENDIX 3LICENSOR'S ASSETS

1. 449.00 m. long berth comprising of 225 Nos. M 30 Grade RCC Cast-in-situ bored piles of 1200 mm, dia as sub-structure and superstructure of RCC M30 deck slab with RCC Pre-cast and Cast-in-situ beam At the end of the berth mooring dolphins with 200 T capacity bollards are constructed Dredged depth in front of the berth is (-) 16.50 m
- 2 The back space to the berth of 42,000 m<sup>2</sup> formed with CC Pre-cast Blocks feasibility exists for forming additional 32,000 m<sup>2</sup> of Pre-cast Block Pavement
- 3 4 Nos. of 30 m. high Mast Tower lights for area illumination.
- 4 350 m. long 150 mm. dia. CI Water supply line and 230 m. long 65 mm. dia., GI Pipeline with 5 Nos. of Hydrants exists at the site.
- 5 Marine fixtures to the berth:
 

i) S.S. Mooring Rings	- 12 Nos.
ii) Bollards (760 dia. pipe 200 T. Capacity	- 5 Nos.
iii) Bollards (600 dia. pipe 150 T. Capacity	- 19 Nos.
iv) G I 25 mm. dia. Stud Chains	- 20 Nos.
v) Super Cell Fenders (yet to be fixed)	- 19 Nos.
vi) Hard wood Rubbing Strips	- 18 Nos.
vii) SS Ladders	- 6 Nos.
viii) Fire Hydrant Connection	- 7 Nos.
ix) Wooden Fenders	- 26 Nos.
x) Electrical Plug Box Chamber	- 7 Nos.



  
 उपाध्यक्ष  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530 035

APPENDIX 4FACILITIES AND SERVICESI) RAILWAY LINE CONNECTION:

Visakhapatnam is well connected by Broad Gauge Railway to Chennai and Howrah. The Visakhapatnam Port has been linked for the movement of materials from the North through the Simhachalam North Railway Station and towards South through Duvvada Railway Station. The two railway branches meet on the North of the NH5. The railway link thereafter has been connected to Port. A good network of railway lines are existing in the Port. Railway line connecting port's operational areas exists up to Ore Berth area in the VOH. Further extension will be examined if the Traffic volume so warrants.

II) ROAD ACCESS:

The Port is connected by road to National Highway No.5. The Road traffic to and from the berth would reach the Port area via the Beach Road. An independent 2-Lane road connection within the dock area from the MPB to Port area is in progress and likely to be completed by middle of 2001.

III) BACK-UP AREA:

Back-up area behind the berth measuring 42,000 M<sup>2</sup> paved with cement concrete blocks is available. Additional 32,000 m<sup>2</sup> area is available for further pavement. If the Licensee requires further area, land area at the Port's EXIM Park could be considered for allotment to the Licensee on lease basis on commercial rates.

Safe bearing capacity of paved area:

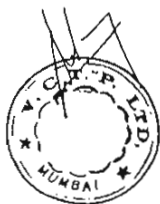
- |  |                  |
|--|------------------|
| (a) Up to 15 mtrs. Width adjoining the berth | - 5 T./sq. mtr.  |
| (b) Backup paved area                        | - 20 T./sq. mtr. |

IV) ELECTRICITY:

The successful bidder will have to contact AP TRANSCO for the requirement of power independent of VPT.

V) WATER:

Water for the ships shall be supplied by barges at rates prevailing from time to time. For general purposes to the extent available, water may be supplied through the pipelines from the VPT's overhead tank in the Fishing Harbour and charged as per rates in force from time to time. Water, if any, required for dust suppression / cleaning or washing of pavements shall be arranged by the Licensee. For the water supplied, rates shall be as prevailing from time to time.



*Atanu Das*  
 उपाध्यक्ष  
 DY CHAIRMAN  
 विशाखापट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 VISAKHAPATNAM - 530035

**VI) FIRE FIGHTING EQUIPMENT:**

The Licensee shall have his own fire fighting equipment to the satisfaction of the Dy. Conservator of the Port.

**VII) SECURITY ARRANGEMENTS:**

The security of the VPT is rested in the Central Industrial Security Force (CISF). The Licensee shall abide by the security regulation / procedure as stipulated by the Licensor. Security arrangements for the berth, assets and cargo thereupon as required shall be catered to by the Licensee.

**VIII) BUNKERING AND FUEL SUPPLY:**

Bunkering at various berths at present will be provided by IOC/HPCL/BPCL. The Licensee may directly contact the Oil Companies for providing this facility at the berth.

**IX) DRAINAGE:**

Storm water drain is planned to be constructed behind the berth in the back space. Run-off shall be channeled to the ground water recharging pits. Cargo/berth wash water shall not be let into the harbour. Sewage shall be let into septic tank and effluent only shall be let into soak pits or dispersion trenches. Untreated effluent shall not be let into drains.

**X) DRAINS:**

To construct office buildings, etc., for the use of the Licensee, the Licensee has to obtain approval of the Licensor.

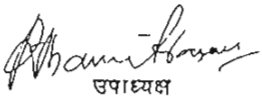
**XI) GENERAL ILLUMINATION:**

This shall be provided by the Licensee at his cost as per norm, to facilitate safe and efficient cargo handling operations on the berth and the back space.

**XII) OTHER SERVICES:**

The Licensee shall on his own, arrange for any other required services and facilities for efficient and safe operation of the terminal having prior approvals from the Licensor



  
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 बिल्डिंग  
 VISAKHAPATNAM - 530 035

APPENDIX 5PROJECT SCHEDULE

The Licensee agrees and undertakes to perform its obligations under this Agreement in accordance with or better than the respective milestone dates mentioned in the Project set out hereunder

S.No.	Activity	Cumulative completion period from date of signing Agreement
i)	Signing of License Agreement	Start
ii)	The lead time to start commercial operations is 9 months for the 1 <sup>st</sup> phase of operation to give 15 moves per ship per berth hour from the date of signing of license agreement up to 5 years.	9 Months
	2 <sup>nd</sup> Phase : End of 5 <sup>th</sup> year, 30 moves per ship per berth hour.	--
	<u>3<sup>rd</sup> Phase</u> The construction period shall be 18 months from the Day the throughput level reaches 1,00,000 TEUs to install and commission the equipment as per project requirement.	18 Months

The Licensee is required to furnish Monthly / Quarterly Progress Reports for review



*Atthamitran*  
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 VISAKHAPATNAM-530 035

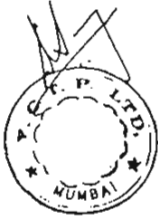
APPENDIX 6TARIFFS

"SCALE OF RATES" to that effect that the charges and conditions for levy are complied / consolidated are herewith enclosed (at the end of the Document).

The Licensee will be permitted to fix tariffs for various activities as per the approval of TAMP/VPT.

NOTE. The Licensor is entitled to collect the Berth Hire Charges.

Encl:- As above.



*Sh. Hanumanth Rao*  
 DY CHAIRMAN  
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APPENDIX 7PRELIMINARY DESIGN CRITERIA AND TECHNICAL SPECIFICATIONS1.1 SCALE OF HANDLING EQUIPMENT:

The scale of mechanical equipment to be provided should match the projected annual volumes of traffic to be handled at Multipurpose Berth at Outer Harbour under the scope of this B O T Scheme. The proposed equipment shall be of latest technology and in new condition. The equipment shall have to be designed, procured, installed and commissioned by the Licensee with the prior approval of the Licensor, i.e., V.P.T.

The suggested scale of equipment is as follows:

- |   |   |
|---|---|
| a) Rail mounted Gantry Quay Cranes  | - 2 Nos.  |
| b) Rubber tyred Gantry Cranes   | - 4 Nos.  |
| c) Other associated equipment like Reach Stackers,<br>Trailers with Power Units, etc. | } As per requirement and shall<br>} be indicated<br>} by the Licensee in the Bid. |

1.2 PRELIMINARY DESIGN CRITERIA:i) Rail mounted Gantry Quay Cranes

Purpose : To cater to the ships upto the size of 100,000 DWT and mainly to handle 20' & 40' Containers with the help of Spreaders. General Break Bulk Cargo with the help of Safe working capacity:

For Containers : 40 MT under Spreader to handle loaded Containers of 20' & 40'

Rail Gauge (To be installed by the Licensee). : 20 M.

Max. Wheel Load : 44 T., including impact. (Details available in Appendix-B).

No. of moves per hour

The commercial operations shall be started within 9 months from the date of signing of the License Agreement.

1st Phase : First 5 years 15 moves per ship per berth hour.

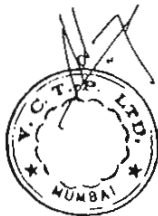
2nd Phase : End of 5<sup>th</sup> year 30 moves per ship per berth hour.

3<sup>rd</sup> Phase : 1,00,000 TEU's

2 nos. Rail Mounted ship to shore Gantry Cranes

4 nos. RTG's, 2 nos. Reach Stackers and 8 nos. Tractor Trailers

All the above equipments shall be ordered when the traffic reaches 1,00,000 TEU's and shall be commissioned within 18 months.

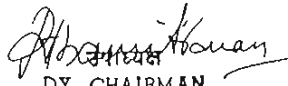


*Shamshad*  
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ii) Rubber Tyred Gantry Cranes

Capacity under Spreader : 40 MT.  
Number of high proposed : 5  
Speeds : To match the requirement.



  
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### STANDARD OF MECHANICAL EQUIPMENT

The equipment and other associated equipment proposed, shall preferably conform to relevant British Standard Specifications and where British Standards are not available, FEM Standard approved by the Licensor, i.e., VPT shall be complied with for proven quality and performance of the equipment.

The Licensee shall submit the technical specifications of proposed equipment with justification to the Licensor during the process of procurement and installation of equipment. Design, procurement, installation and commissioning of any other infrastructural facilities, including electrical Sub-Station other than the Licensor's Assets available in Appendix-3, shall be in the scope of the Licensee and with the approval of the Licensor.

Duty / Class of Crane (as per

Group Classification:

Class of utilisation:

Group Classification of mechanism.

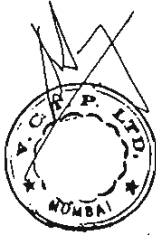
Hoist & Grab

Trolley Traverse :

Long Travel

Boom Hoist

ENCL:- Information / data as furnished by M/S. U L A



*Atchannarayana*  
 उपाध्यक्ष  
 DY CHAIRMAN  
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APPENDIX 8DESIGNS AND DRAWINGS

The Berth is designed for the following loadings to handle upto 1,00,000 DWT vessels.

1. IRC loading, including 70 R loading (Tracked and wheeled vehicles).
2. Live load of 5 t/m<sup>2</sup> on deck.
3. Loader crawler crane having dead weight of 99 T. and lifting capacity of 100 T. at a radius of 4.5 m. (on contact area of 4600 x 900 mm. per leg).
4. Wharf Crane with max. corner load of 214 T. (including impact) at a gauge of 5.79 m.
5. Container Quay Crane with max. corner load of 352 T. (including impact) at a gauge of 20m. with not less than 8 wheels per corner (bogie) at a spacing of 800 mm. C/C (Max. wheel load, including impact - 44 T.).

The following drawings are enclosed:

- i) Drg. No. VH/37/96 - Layout Plan.
- ii) Drg. No. VH/39/96 - General arrangement.
- iii) Drg. No. VPT/75/99 - Cross Section of Berth.

SOIL STRATA AT THE BERTH:

The soil behind the berth under the stacking area is filled with dredged sand and gravel over sandy strata. The main berth piles are socketed into hard rock for 1 m. depth and the rock strata is met at (-) 20 m. to (-) 28 m.

Enclosures: 3 Drawings.



*R. H. S. Nayak*  
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APPENDIX-9INDEPENDENT ENGINEER1. INDEPENDENT ENGINEER:

- a. The Licensee shall within 30 days from the date hereof, submit to the Licensor, a panel consisting of at least three reputed firms or companies or body corporates or a combination thereof, having necessary expertise for appointment of the Independent Engineer, to undertake, perform, carry out the duties, responsibilities, services and activities elsewhere in this Agreement.
- b. The Licensor shall within 30 days from the date of receipt of such panel, appoint the Independent Engineer from out of such panel, and communicate the same to the Licensee. The tenure and the scope of work and the reports to be submitted by the Independent Engineer.
- c. The costs and expenses of the Independent Engineer shall be entirely borne and paid by the Licensor.
- d. If the Licensor or Licensee have reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, the Licensor may terminate the appointment of the Independent Engineer and appoint another firm in its place in accordance with the preceding clause (a) and (b) above.
- e. If either party disputes any advice, instruction or decision of the Independent Engineer, the dispute shall be resolved in accordance with the dispute resolution procedure set out in Article 15

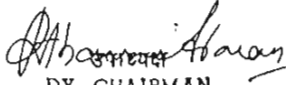
1.2 PREPARATION OF DESIGNS AND DRAWINGS:

- a. The Licensee shall, at its cost, charges and expenses, prepare the Designs and Drawings in accordance with the Preliminary Design Criteria and Technical Specifications as set out in Appendix-7
- b. The Licensee shall cause the designs and drawings as set out in Appendix-8 and seek approval of such designs and drawings by the Independent Engineer

1.3 REVIEW AND APPROVAL OF DESIGN AND DRAWINGS

- a. The Licensee shall submit the design and drawings for the approval of the Independent Engineer.
- b. The Licensee shall cause the preparation of the Designs and Drawings submitted by the Licensee and subject to the provisions of 1.3(c) herein below, communicate its approval within twenty one days from the date of the receipt of such Designs and Drawings.



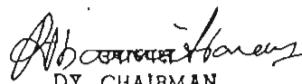
  
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- c. In the event that the Independent Engineer has any objection to the Designs and Drawings, it shall promptly and without any undue delay, notify the Licensee of its objections, seek clarifications or suggest changes or modifications or corrections thereto. Thereupon, the Licensee shall provide necessary clarification to the independent Engineer and or re-submit the Designs and Drawings as the case may be after incorporating the charges, modifications or corrections suggested by the Independent Engineer.
- d. If the Independent Engineer does not object to the Designs and Drawings submitted to it by the Licensee within twenty one days of submission, the Independent Engineer shall be deemed to have approved such Designs and Drawings and the Licensee shall be entitled to proceed with the Project accordingly.
- e. The Licensee shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or in resubmitting the Designs and Drawings. Provided however, the Licensor may suitably extend the Construction Period or provide other relief to compensate for any such delay not attributable to the Licensee.
- f. The Licensee shall not change any Designs and Drawings approved or deemed to be approved by the Independent Engineer under this Agreement without the prior written consent of the Independent Engineer. Provided that the Licensee may, for more efficient functioning of the Project Facilities and Services propose to the Independent Engineer changes to the approved Designs and Drawings and specifications of any equipment consistent with all design standards applicable to the Project and the Applicable Laws.
- g. Notwithstanding the express or deemed approval by the Independent Engineer, the Licensee shall be solely responsible for any defect and or deficiency in the Designs and Drawings relating to the Project or any other part thereof and accordingly the Licensee shall at all times remain responsible for its obligations under this Agreement.
- h. Any review of the Designs and Drawings conducted by the Licensor is solely for the Licensor's own information and that by conducting such review, the Licensor does not accept any responsibility for the same.
- i. The Licensee shall in no way represent to any person that as a result of any review by the Independent Engineer, the Licensor has accepted responsibility for the engineering or soundness of any work relating to the Project/Project Facilities and Services or part thereof carried out by the Licensee and the Licensee shall, subject to the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project/the Project Facilities and Services or any part thereof.

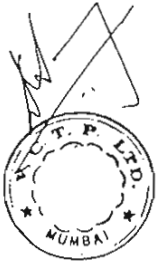
#### 1.4 CONSTRUCTION PERIOD:

The Licensee shall promptly commence and complete the works, including installation of equipment in accordance with the Project Schedule and obtain from the Independent Engineer, a Certificate as to the completion of construction of Project Facilities and Services in accordance with the Provision of 1) the licensee shall commence commercial operation within 9 months from the date of signing of the Agreement 2) the Licensee shall install and commencing the equipment as per the requirement within 18 months from the time when throughput reaches 1,00,000 TEUs from the date of commencement of the License Period (Construction Period).



  
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Subject to any of the provisions of this Agreement providing for extension of time for performance or excuse from performance, as the case may be, of any of the obligations of the Licensee under this Agreement, the Licensee shall pay to the Licensor liquidated damages at the rate of Rs.5,60,000/- per day per berth for delay of every day provided such liquidated damages shall not in aggregate exceed 5% of the Estimated Project Cost. In case the delay exceeds 90 days, the Licensor shall be entitled to terminate this Agreement.



*Abhishek Nayak*  
 BY CHAIRMAN  
 विशाखपत्तन पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 VISAKHAPATNAM-530 035

APPENDIX 10MINIMUM GUARANTEED TRAFFIC

1. A copy of the price proposal (Appendix-21A) showing the minimum guaranteed throughput per each year of the license period is enclosed.
2. In case the minimum guaranteed throughput is not achieved the short fall in the income will be recovered from the licensee.
3. In case the minimum throughput is in excess, the gross income proportionally increases
4. In addition to the above, when the Licensee fails to comply with minimum guaranteed throughput, the Licensor has the option to terminate the contract as per Article-10 of the License Agreement.
5. In case the minimum guarantee throughput is in excess, the gross income proportionately increases.



*Abhaya Narayan*  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
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 VISAKHAPATNAM-530 035

APPENDIX 11ENVIRONMENTAL APPROVALS

Copy of  
Government of India  
Ministry of Environment & Forests  
NEW DELHI  
PARYAVARAN BHAVAN, C.G.O. COMPLEX,  
LODI ROAD, NEW DELHI-110 003.

Telephone No.4361316  
Telegram: PARYAVARAN

No.J-16011/15,16/92-IA:III

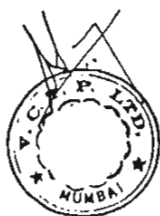
2nd February, 1993.

**OFFICE MEMORANDUM**

Sub: 1. Construction of LPG Handling Jetty in the Outer Harbour by Visakhapatnam Port Trust.  
2. Construction of Multipurpose Berth in the Outer Harbour by Visakhapatnam Port Trust.

Reference is invited to Ministry of Surface Transport's letter No.PD/11011/4/92-VPT and No.PD/11011/5/92-VPT, dated 22nd July 1992, seeking environmental clearance for the above mentioned proposals.

2. The proposals have been examined and environmental clearance is hereby accorded subject to the following conditions:
  - i) Dredging operations should be undertaken in consultation with Expert Institute such as Central Water and Power Research Station (CWPRS), Pune, or any other institute to ensure that dredging operations do not cause any adverse impact on surface and ground water and marine productivity in the vicinity.
  - ii) During dredging, construction and maintenance stages, the water quality parameters at the bottom level should be inspected and periodic records be maintained. Tests should be carried out to measure water quality parameters, viz., turbidity, dissolved oxygen, ammonical nitrogen and other nutrients which must be maintained within the prescribed standards.
  - iii) Screening of pollutants in the harbour waters should be taken up by the project authorities and periodical monitoring reports on water quality parameters must be forwarded to this ministry at six monthly intervals.
  - iv) In addition to the Disaster Management Plan prepared, the project authorities should consider the worst case disaster scenario with respect to specific cases like oil/chemical spills, fire/explosion, terrorist attack, flood, etc., spelling out definite adequate measures to be taken to prevent and contain such disasters. A report on this must be forwarded to this Ministry within six months from the date of issue of environmental clearance.
  - v) To prevent discharge of sewage, bilge, wastes and other liquid wastes into the marine environment, adequate system for collection, treatment and disposal of liquid wastes including shoreline interceptor for receiving liquid wastes from all shoreline installations and special hose connection for ships to allow for discharge of sewage must be provided



*[Signature]*  
DY CHAIRMAN  
विशखपत्तन पोर्ट ट्रस्ट  
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- vi) Appropriate protection, clothing and necessary equipment should be provided to the personnel engaged in handling phosphoric acid, liquid ammonia and other toxic chemicals.
- vii) Green Belt Development Programme as proposed must be carried out. In addition, suitable species of trees must also be planted along the existing roads in the port area, open vacant spaces and along the shoreline.
- viii) Adequate noise control measures such as providing muffler to muffle the sound from engines, motors, etc., earplugs to workers working in the noisy environment to contain the noise within prescribed standards must be adopted.
- ix) The quality of treated effluents, solid wastes, emissions and noise levels, etc., must conform to the standards laid down by the competent authorities, including Central/State Pollution Control Board and under the Environment (Protection) Act, 1986, whichever are more stringent.
- 3. In the Visakhapatnam Port Trust, sufficient in-house capability (Environment Cell) should be created to monitor and implement the programme related to pollution control and environmental conservation.
- 4. Adequate financial provision must be made for implementation of the above stipulations.
- 5. In case of any deviation/alterations in the project, proposal from those submitted to this Ministry for clearance, these stipulations may be modified and/or new ones imposed for ensuring environmental protection.
- 6. These stipulations will be enforced among others under the Water (Prevention & Control of Pollution) Act, 1974. The Air (Prevention & Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986.

Sd/-  
(I.K. Kamboj)  
Joint Director (Scientific)

To  
The Secretary,  
Ministry of Surface Transport,  
Parivahan Bhavan, Parliament Street,  
NEW DELHI - 110 001.

Copy to:

- 1. Chairman, Visakhapatnam Port Trust, Visakhapatnam-35 (A.P).
- 2. Chairman, Central Pollution Control Board, Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar, Shahdra, Delhi-32.
- 3. Chief Conservator of Forests, Regional Office (Southern Zone), Ministry of Environment & Forests, No.463, 1st Main, IIIrd Stage, IIIrd Block, Basaveswaranagar, Bangalore-560 079.
- 4. DIG (FC), Incharge, Regional Office Cell, Ministry of Env. and Forests, Parivahan Bhavan, New Delhi.
- 5. Chairman, State Pollution Control Board, 6-6-115/124, Kavadiyuda, Secunderabad-500 003.
- 6. Guard File.



Sd/-  
(I.K. Kamboj)  
Joint Director (Scientific)


*(Signature)*  
DY CHAIRMAN  
विशाखापत्तनम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
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APPENDIX 12OPERATIONAL STRATEGIES AND WORK PLANS

Encl:-As furnished by the Bidder



  
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## Appendix 12

### Operational Strategies and Work Plans

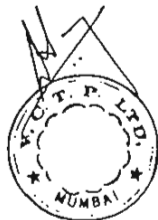
#### Operation and Maintenance Contracts

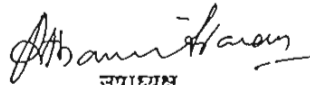
It is not envisaged to sublet the operation and maintenance activities to any contractor. The JVC through its consortium members, has a commendable track record of management of state-of-the-art Container Terminals at Dubai, Jeddah and Djibouti which proves their capability to maintain the container terminal. Data on container terminals operated and maintained by DPA/DPI which is enclosed as Annexure 6.1 of the Technical Bid shows the efficiency of their terminals. The JVC, if needed at an appropriate time, may sublet part of the operation/maintenance on a contract basis to improve the terminal performance. The contractor would be selected based on the track record of their performance, efficiency, economy etc.

The JVC would like to adopt the following operational & maintenance strategies for the terminal in the following phased approach :

#### A. Operational Study and Planning

In view of industrial development in the hinterland of the port, cargo volumes are appreciating at an impressive rate, as estimated in our traffic forecast. The terminal will be commissioned for commercial operation in the shortest possible period to attract these cargoes to the new terminal. State-of-the-art planning, monitoring, and tracking systems are being planned to be installed commensurate with the throughput handled at the terminal. Customer satisfaction would be the key factor to attract business to the terminal. Customers will be attracted only if quick services, speedy flow of information on container tracking, and faster processing of documents are provided. The JVC is planning to provide state-of-the-art



  
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terminal MIS/Operations systems, module-wise, at an appropriate time commensurate with the throughput requirements.

**i) Terminal Performance**

Performance will be monitored regularly and continuous improvement in techniques would be in-built in the system. The consortium may at an appropriate time introduce suitable performance related incentive schemes, considering achievement of a minimum level of performance. This would motivate employees to achieve higher target levels.

**ii) Terminal Control System**

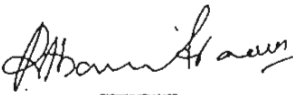
A compatible computer aided management control and planning system would be implemented to provide information relating to locations, status and availability of containers. This system would offer management and staff easy access to the details of all containers on the terminal, as well as expected at the terminal. A database would be set up to have the history of all container movements and an archive base would retain this data for certain time period. It is envisaged that the system will be interfaced to the port's customers and customs offices.

**B. Operational Aspects**

**i) Ship to Shore Movement**

The work force assigned to the ship will board the vessel on arrival and remove lashings on import and re-stowe containers and prepare lashings for outbound containers. The gangs will also carryout dogging and unplugging of the reefer containers. A programme will be prepared by the Ship Planning Cell prior to the vessel's arrival and the gangs will work according to this programme. Appropriate care will be taken while working above deck level.



  
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iii) In/ Out Gate Operations

A modern Gate facility to the Terminal will be provided. Direct delivery will not be allowed until the vessel has completed discharge, which otherwise may hinder the yard crane operations, and trailer movements, and in turn the productivity.

iv) CFS Operation

The CFS would be provided with suitable Reach-Stacker(s) / Top Lift Truck(s)/ Fork Lift Trucks to handle FCL / LCL boxes at the CFS. Suitable Fork Lift Trucks to handle packets, pallets, loose cargo inside the container and within the warehouse will be provided in accordance with traffic levels. The JVC may require a plot of land for the CFS (outside the port) in order to carry out the CFS activity depending on the demand for space for basic port operations.

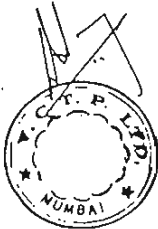
v) Terminal Users Co-ordination

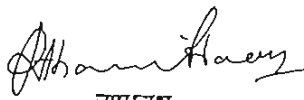
It is imperative that the JVC will maintain cordial relations with customers and would have regular meetings with customers such as liner agents, CHAs, agents etc. These meetings would help the JVC to improve the productivity, simplify documentation and procedures, ETA advices and such other matters. A small committee of selected line representatives may assist in forming specifications, testing new systems and new procedures, and assisting in the development of the terminal and to act as a bridge between the JVC and its customers.

**Computerization & Information system**

Management of container terminal is to be designed to cater for following factors:

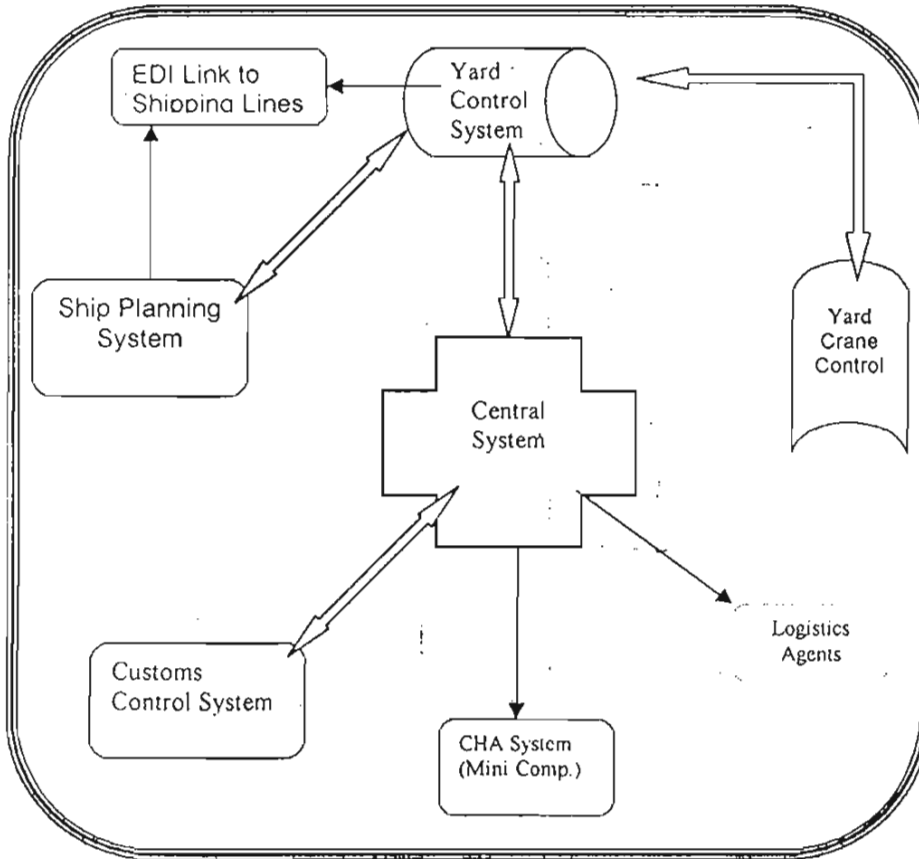
Customer service and continuous improvement



  
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Zero error response to the customers  
Cost control tools  
Productivity indicators improvement

Following full-fledged computer information system may be implemented on the terminal gets the Quayside Gantry Cranes.



It is emphasised that the systems may be provided and integrated progressively so as to develop skills with the operators as and when the throughput increases so that the port users, and terminal staff get the maximum benefit. In the beginning a simple container control system



*Atanu Nayak*  
उपाध्यक्ष  
DY CHAIRMAN  
विशाखापट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखापट्टणम  
VISAKHAPATNAM-530 035

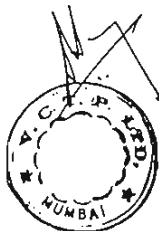
The tallyman will identify the container to be discharged and indicate the same to the crane operator for discharge of the container. He will record details in the checklist for any discrepancies and damage etc. using the computerised system. The Quay Crane will lift the container and place the same on the tractor trailer. The trailer will carry the container to the import yard where the Reach Stacker/ Rubber Tyred Gantry Crane will unload the container.


The export operation would be conducted in the similar manner but in the reverse of the import operation. The yard crane operator will have the export list (through radio data communication from Central Control System or otherwise) and load the containers on to the trailers. The trailers will carry the containers to the quay for loading onto the ship. Once loading is done the labourers will lash the containers progressively. As stated elsewhere in this document, Radio Data Communication is likely to be introduced at an appropriate time when the terminal achieves substantial container throughput in phase 1 or phase 2 of the terminal development.

Deployment of the number of cranes to each vessel would be decided based on the number of the containers to be handled, the vessel size, working space and other factors.

## ii) Yard Operations

The Yard Crane (RTGC / Reach Stacker) operator will have an import list (either transmitted by the radio data link of Central System or otherwise) and will unload the container at the pre-designated location. A container stack will be up to five high in the event of an RTGC operated yard. Containers may be parked in parallel to the quay alignment. The detail of the container location will be notified to the Yard Control System which will maintain a high degree of yard integrity.



  
उपाध्यक्ष  
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विशाखापट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
VISAKHAPATNAM-750035

would be installed and as and when required further modules will be introduced by providing Central Control System.

The extensive use of EDI with a computer network by the shipping lines, CHAs, Customs, Logistics Agents would eliminate time consuming regular procedures and paper works. This would result in a paperless transaction. This would also help in job scheduling, prioritise the tasks, and provide information to operators at the yard about the movement of containers in the yard, on line.

The Software systems like NEVIS, COSMOS is envisaged to be implemented for this MIS system at an appropriate time on achieving the required throughput. This computer system will maximise terminal performance by

Using Radio Data Transmission system with on-board VDUs and UHF communications for yard cranes.

Automatic slot identification system

Container Handling performance indicators,

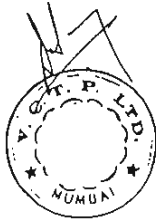
Receipt & delivery of container,

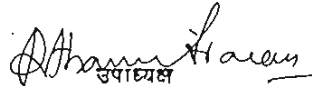
Container tracking

Intra-port movements of containers

Reefer monitoring

As per the present trend to achieve high levels of efficiency it is imperative to have the right information at the right time which can be achieved by electronic documentation. The computer system will provide this facility and it is aimed to have entire operations are on E-commerce based.



  
उपाध्यक्ष  
DY. CHAIRMAN,  
विजापट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विजापट्टणम  
VISAKHAPATNAM-530035

APPENDIX 13  
EQUIPMENT PROCUREMENT PLAN



Encl:-As furnished by the Bidder

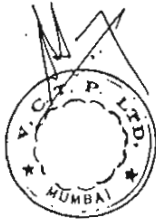
*Atchannaidu*  
 DY CHAIRMAN  
 విశాఖపట్నం పోర్ట్ ట్రస్ట్  
 Visakhapatnam Port Trust  
 విశాఖపట్నం  
 VISAKHAPATNAM-530 035

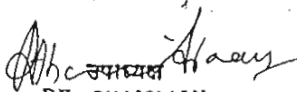


## APPENDIX 14

YEAR-WISE INVESTMENT PLAN

Encl:-As furnished by the Bidder

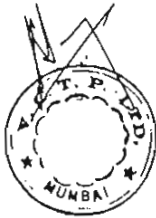



  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530035

## APPENDIX 15

OPERATIONS AND MAINTENANCE PLAN

Encl:-As furnished by the Bidder



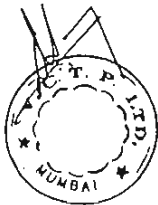
  
 DY. CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530035

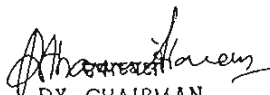
**APPENDIX 16**  
**EQUIPMENT REPLACEMENT**

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NOTE: The Licensee shall be required to replace the equipment on expiry of their life as per VPT norms, by new equipment having specification not inferior to those initially provided. The Licensee shall plan for replacement well ahead of the time of expiry of its life. The equipment shall be in excellent working condition at all times and handed over to the Licensor in working order at the end of the Licensee period.

Encl:-As furnished by the Bidder



  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विसाखपट्टणम  
 VISAKHAPATNAM - 530 035

## APPENDIX 17

EMPLOYMENT OF PERSONNEL

In case of a new facility being built by the BOT Operator, the option of employing Port labour will rest with them

The present project being new facility, the bidder may indicate here the requirement of the manpower if any, to be taken by him from VPT/VDLB

Encl:-As furnished by the Bidder



*[Signature]*  
 BY CHAIRMAN  
 విశాఖపట్నం పోర్ట్ ట్రస్ట్  
 Visakhapatnam Port Trust  
 విశాఖపట్నం  
 VISAKHAPATNAM - 530 035

## APPENDIX 18

PRIORITY BERTHING NORMSPREFERENTIAL AND PRIORITY BERTHING:

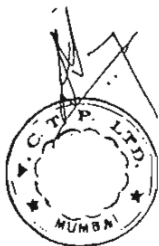
The Licensee may, with the prior written approval of the Licensor, offer preferential treatment in the matter of berthing to any one or more shipping lines or vessel owners/ operators with a view to optimising the use of the berths and equipment in view of minimum guaranteed traffic. However, since the berthing charges are collected by the Licensor, users will have to pay the tariff as per the rates fixed by the Licensor in respect of similar services and duly notified by GOI. or to be fixed by the Tariff Authority for Major Ports, constituted under Article 47A of the Major Ports Act, 1963, in the official gazette, from time to time.

Guidelines for Priority Berthing and Berth reservation are given under:

2. BERTHING PROCEDURES / PRACTICES IN V.P.T.:

1. Vessels are allotted berths according to the order of their arrival to anchorage, provided they are ready with all commercial documents and all other aspects by close of office hours of the respective day for which the berthing meeting is held every day of the year.
2. While sequencing the movements, as far as possible the movements are executed according to the seniority of the vessel plus the seniority of Flag hoisted duly following berthing priorities and decided in the trade meetings from time to time.
3. However, priority is given for vessel as under:
  - a) Vessels in distress will be given priority.
  - b) Passenger Vessels will be given priority.
  - c) Vessels arriving with night navigational restrictions, i.e., vessels having more than LOA 182.9 Mtrs., Draft 9.14 Mtrs. and Beam 31.5 Mts. and also Liquid Ammonia and LPG Tankers for Inner Harbour.
  - d) Vessels requiring high water, i.e., more than 9.14 Mtrs. Draft will be given preference at the time of High waters.
  - e) Vessels arriving for export Iron Ore.
  - f) Berthing/Un-berthing of tankers in Outer Harbour.


After the above requirements are taken care of, the other movements are carried out one after one, based on seniority.



*Signature*  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 VISAKHAPATNAM  
 VISAKHAPATNAM-530 035

- 4
- a) The Container Vessels that arrive on fixed window basis will be accorded priority movement for berthing. However, in case of any Suez Max tanker vessel waiting the container vessel will not be delayed for more than 5 hours for berthing and sailing.
  - b) The Container Vessels requiring priority on fixed window basis should give its scheduled arrival/departure at least three months in advance
  - c) The expected time of arrival / departure of the container vessel should be declared minimum 48 hours in advance
  - d) If the shipping line/BOT Operator does not bring within 7-2 hours of the commencement of the time reserved for the berth, it will forfeit its fixed window berthing movement priority
  - e) The berthing / sailing movement priority will be subject to over riding priority given by the Govt. to specified vessels or classes of vessels, natural calamities, labour strike, defence requirement, force majeure and acts of God.



  
 उपाध्यक्ष  
 DY CHAIRMAN  
 विशाखपट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखपट्टणम  
 VISAKHAPATNAM-530 035

Copy of

Govt. of India,  
MOST, Transport Bhavan,  
New Delhi-11-11

No.PT-11033/13/91-PT

Dt.8.12.94.

To  
Chairman,

Sub: General guidelines for according Priority/Ousting Priority for berthing the vessels at Major Ports.

Sir,

As per this Ministry's letters of even number dt.21.12.92 and 10.12.93, certain instructions were issued to all Major Port Trusts for charging a fee for according the 'Priority' Ousting Priority to berth the vessels at Major Ports copies enclosed.

The issue of charging fee for providing the 'Priority'/ Ousting Priority has been further examined in the Ministry and following instructions are issued.

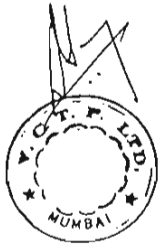
1. All Major Port Trusts shall collect a fee in addition to the berth hire charges for providing 'priority/ousting priority' in berthing at the revised rates as follows:

For providing the 'priority' berthing to any vessels, all Major Port Trusts shall collect a fee equivalent to berth hire charges for a single day or 75% of the berth hire charges calculated for the total period of actual stay at the berth, which is higher. For example, if the berth hire charges are per day, then a minimum fee of Rs.10,000/- berth hire charges calculated for the total per annual stay at the berth, i.e., Rs.7,500/- per whichever is higher shall be charged.

2. For providing the 'ousting priority' to any vessel, a Major Port Trust shall collect a fee equivalent to berth hire charges for a single day or 100% of the berth hire charges calculated for the actual period of stay at the berth, whichever is higher. For example, if the berth hire charges are Rs.10,000/- per day, then a minimum fee of Rs.10,000/- per 100% of the berth hire charges calculated for the total period of actual stay at the berth, i.e., @ Rs.10,000/- per day, whichever is higher, shall be charged.

In addition, for providing 'ousting priority' to any vessel all Major Port Trusts shall collect the charges for 'shifting in' and 'shifting out' of the vessels.

3. The fee for according 'priority/ousting priority' as indicated above shall be charged from all the vessels irrespective of the fact whether the 'priority/ousting priority' is accorded by Central Government or the Port Trust under their own rules and regulations, except the following categories:



*Visakhapatnam*  
DY CHAIRMAN  
विशाखपट्टणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपट्टणम  
VISAKHAPATNAM - 530035

- i) Vessel carrying cargo on account of Ministry of Defence.
  - ii) Defence vessels coming on goodwill visits.
  - iii) Vessels hired for the purpose of Attraction expedition granted by the Ministry of Surface Transport.
4. All other instructions as detailed in this office letter of even number dated 21st Dec. 1992 shall continue to apply.
  5. These instructions shall come into effect, i.e., from 8.12.94.
  6. The receipt of this letter may kindly be acknowledged.

Yours faithfully,  
 Sd/- x x x  
 (Anand Kumar)  
 Dy. Secy. to the Govt. of India

Encl: As stated.



*[Signature]*  
 DY CHAIRMAN  
 विशाखापट्टणम पोर्ट ट्रस्ट  
 Visakhapatnam Port Trust  
 विशाखापट्टणम  
 VISAKHAPATNAM-530 035

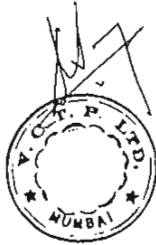


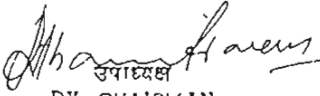
## Appendix 19

### Equity Holding of Sponsors

As stated in our MOU attached in appendix 2, the Licensee shall ensure that the sponsors maintain their minimum holding in the paid-up Equity Capital of the Licensee until expiry of 3 years from the date of commercial operations as specified below

Sr. No.	Name of the Sponsor	Minimum Holding (%)
1.	United Liner Agencies of India (Pvt.) Ltd. and associates.	74%
2.	Dubai Ports International	26%



  
उपाध्यक्ष  
DY CHAIRMAN  
विशाखपत्तन पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखपत्तन  
VISAKHAPATNAM-530 035

### GUIDELINES FOR PRIORITY BERTHING AND BERTH RESERVATION

The guidelines contained in the Govt. of India<sup>1</sup> (copies enclosed) shall be adhered to following.

- i) M.O.S.T's. Lr. No.PT/11023/2/59 Pt. dt.1.6.92
- ii) " PT/11033/13/92 Pt. dt.21.12.92
- iii) " PT/11033/13/92 Pt. dt.10.12.93.
- iv) " PT/11033/13/92 Pt. dt.8.12.92
- v) " PT/11023/7/92 Pt. dt.8.3.95

No.PT/11023/2/59-Pt  
Government of India,  
Ministry of Surface Transport (Ports Wing)

New Delhi dt.1.6.92.

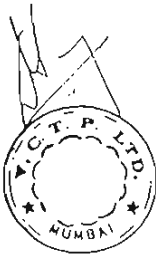
To  
Chairman  
(All Port Trusts)

Sir,

Sub: Berth Reservation Scheme - General Guidelines - Reg

I am directed to state that there have been proposals from time to time from the various major ports for permitting them to reserve berths for ships. The Government have considered various proposals. In order to give operational freedom to Port Trusts, Government have decided to lay down only general guidelines to be observed by Port Trusts "while" finalising the detailed terms and conditions with shipping lines regarding advance berth reservation. Within the framework of these guidelines, Port Trust Boards can negotiate and finalise arrangements with shipping lines for granting the facility of berth reservation. These guidelines are:

- i) A shipping line requiring advance reservation for a container ship should give its scheduled arrival of ships at least 3 months in advance. In the case of other vessels, the minimum notice period may be one month.
- ii) A fee will have to be charged for berth reservation scheme and this should be equal at least to the berth hire for a day or to 25% of the berth hire for the expected stay of the ship at berth whichever is higher. The shipping line should intimate the expected stay of the ship at the time of asking for berth reservation.
- iii) The berth covered by the reservation scheme should not exceed 25% of the available berth days in any month and at any point of time at least 50% of the berths should be available on a "first come first served" basis. So far as general cargo berths are concerned, the ports may group the berths for this purpose depending upon the nature of cargo unloaded at different berths.

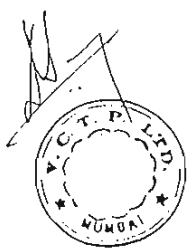


*Abhishek Karmali*  
BY CHAIRMAN  
विशखapatnam पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशखapatnam  
VISAKHAPATNAM-530 035

- iv) If the shipping lines does not bring the ship at the pre-reserved time, then it will forfeit its berth reservation fee given in advance. So far as liner ships are concerned, the ships should arrive within six hours of the commencement of the time reserved for the berths and so far as non-liner vessels are concerned, it should arrive within one day of the time indicated for the arrival of the ships.
- v) The Port Trusts may also negotiate with the lines the conditions regarding a minimum throughput and regarding the provisions of equipment; etc., for cargo handling at the Port. No commitment regarding availability of equipment which is unrealistic or in excess of the Port's capacity to provide should be given by the Port Trusts.
- vi) The berth reservations system will be subject to over riding priority given by Government to specified vessels or classes of vessels.

Specific proposals forwarded to this Ministry by Ministry by Trust and Jawaharlal Nehru Port Trust may also be in accordance with these general guidelines.

Yours faithfully,  
Sd/-  
(R.N. VERMA)  
Director



*Abanish Chandra*  
BY CHAIRMAN  
विभागाध्यक्ष की सेवा  
Visakhapatnam Port Trust  
विभागाध्यक्ष  
VISAKHAPATNAM-530 035

Copy of

Government of India,  
Ministry of Surface Transport (Ports Wing)  
New Delhi

IMMEDIATE

No PT-11033/13/92-PT  
the 21st Dec 1992

To  
The Chairman,  
J.L. Nehru Port Trust,  
Sheva,  
New Bombay

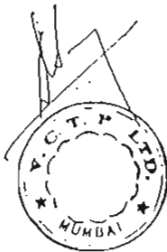
Sub: Ousting priority berthing to ships - General Guidelines - Reg

Sir,

I am directed to state that there are cases where priority ousting priority berthing facility has been given by the Government and in some cases by the Ports, under the powers available to them under their rules and regulations.

- 2 It has now been decided that in all such cases where such a facility has been given in past or may be given in future, there will be a priority berthing charge. A fee will have to be charged equivalent to berth hire for a day or 25% of the berth hire for the expected stay of the ship at berth whichever is higher. The shipping agent Master of the ship should intimate the expected stay of the ship in advance. In case of ousting priority, all the charges which are incurred by the port authorities in 'shifting in' of vessels will also have to be paid. Since the collection of vessel related charges is to be done in terms of the rates notified in US Dollars and converted into India rupees on the date of arrival of the vessel the above charges will also have to be collected accordingly.
- 3 These instructions will apply to all vessels being accorded 'priority/ousting priority' berthing, except vessels carrying Government cargo.
- 4 This may also be brought to the personal knowledge of concerned officers like Chairman, Dy. Chairman and Heads of the Departments of the Port Trust.
- 5 The receipt of the letter may please be acknowledged.

Yours faithfully,  
Sd/-  
(R.N. VERMA)  
Director (PT)



*Visakh*  
DY CHAIRMAN  
विशाख पोर्ट ट्रस्ट  
Visakh, J.L. Nehru Port Trust  
VISAKHAPATNAM  
VISAKHAPATNAM-530035

Copy of

Government of India,  
Ministry of Surface Transport (Ports Wing)  
New Delhi

No.PT-11033/13/92-PT

the 10th Dec 1993

To  
The Chairman,  
All Major Port Trusts

Sub Ousting priority berthing to ships - General Guidelines - Clarifications - Reg.

Sir,

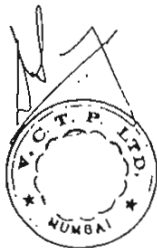
As per the Ministry's letter of even number dated 21st Dec.1992, certain guidelines were issued regarding the fee to be charged for providing priority/ousting priority berthing to vessels at major ports.

2. In the guidelines it has been mentioned that these would apply to all vessels who are accorded priority/ousting priority berthing except vessels carrying Government cargo
3. To make the Clause regarding exception more clear, it has been decided that the priority/ousting priority berthing charges shall be collected from all vessels except the following:
  - i) Vessels carrying government cargo i.e., cargo which has been imported on Government account directly, i.e., by any Ministry of Government of India. This exemption shall not be applicable to the cargo imported by the public sector undertakings.
  - ii) Defence vessels coming on goodwill visits.
  - iii) Vessels hired for the purpose of Attraction expedition by Department of Ocean Development.
  - iv) Any other vessel for which special exemption has been granted by Ministry of Surface Transport
4. These clarifications may kindly be brought to the notices of all concerned for necessary action.
5. The receipt of the letter may please be acknowledged.

Yours faithfully,

Sd/- xxxx

Dy Secy to the Govt. of India



*(Signature)*  
DY CHAIRMAN

विशाखापत्तणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust

VISAKHAPATNAM-530 035

Copy of

Government of India,  
Ministry of Surface Transport (Ports Wing)

No.PT-11033/7/95-PT  
New Delhi,  
the 8th March, 1995

To  
The Chairman,  
All Major Port Trusts.

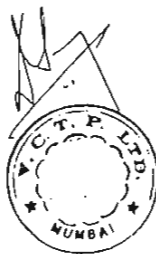
Sub: Berth Reservation Scheme - General Guidelines - Reg.

Sir,

I am directed to refer to this Ministry's Lr. No.PT-Z/ 11023/89-PT dated 1.6.1992 on the above mentioned subject.

2. As per the present instructions, a fee equivalent to the berth hire charges for a single day or 25% of the berth hire charges calculated for the expected stay of the vessel at the berth, whichever is higher, is charged for granting the facility for berthing under Berth Reservation Scheme.
3. The issue of charging the fee from the vessels berthed under the Berth Reservation Scheme has been further examined in the Ministry and it has been decided that all major Port Trusts shall charge a fee equivalent to the berth hire charges for a single day or 50% of the berth hire charges for a single day or 50% of the berth hire charges calculated for the actual stay of the vessel at the berth, whichever is higher, for berthing any vessel under the Berth Reservation Scheme.
4. The other features of the Scheme will remain as communicated earlier.
5. These instructions shall come into effect from the date of issue of this letter.

Yours faithfully,  
Sd/-  
(ANAND KUMAR)  
Deputy Secretary (PT)



*Abanish Chavhan*  
DY CHAIRMAN  
विशाखापत्तणम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
VISAKHAPATNAM - 530 035

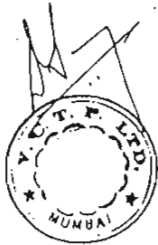
## APPENDIX 19

The Licensee shall ensure that the sponsors maintain their minimum holding in the paid up Equity Capital of the Licensee until expiry of 3 years from the date of commercial operations as specified below:

S.No.	Name of the Sponsor	Minimum holding (%)
1	M/s. UNITED LINER AGENCIES OF INDIA (P) LTD., MUMBAI	74%
2	M/s. DUBAI PORTS INTERNATIONAL, DUBAI	26%

NOTE: The recommended minimum level of holding is 51% in aggregate. The Sponsor having the maximum eligible experience should hold at least 26% of the Paid Up Equity Capital for this period.

Encl: As furnished by the bidder



*Abhimanyu*  
उपाध्यक्ष  
DY CHAIRMAN  
विशाखापत्तनम पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
विशाखापत्तनम  
VISAKHAPATNAM - 530035

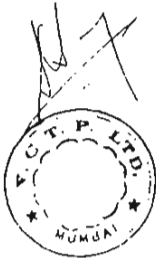
## APPENDIX 20

TRANSFER TECHNOLOGY/LICENSEE'S ASSETS

(THE SCOPE OF TRANSFER SHALL BE SET OUT)

SCOPE OF TRANSFER:Transfer of know how and technology:

In the part of the proposal, the bidder should indicate his willingness to transfer technology and up to date know how and also details of his experience and capability to promote human resources development, for operating and maintaining advanced technological hardware and software and for transferring the responsibility for their use and application to local staff.



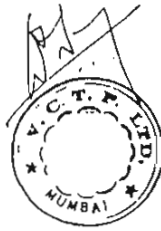
*M. G. H. H. H.*  
 BY CHAIRMAN  
 VISALIA  
 Port Trust  
 VISALIA  
 11-11-83 035



## Appendix 20

### Transfer Technology / Licensee's Assets

The Consortium members are willing to transfer the technology and up-to-date know-how for the operations and maintenance of advanced technological hardware to personnel in the Joint Venture company proposed to be set up for the development and operation of the terminal. A statement towards this effect is enclosed vide Annexure 2.8 of the Technical Bid.



*M. S. K. K. K.*  
DY CHAIRMAN  
विशाखा पोर्ट ट्रस्ट  
Visakhapatnam Port Trust  
...  
VISAKHAPATNAM-530 035

## APPENDIX 21

PRICE PROPOSAL

(Note. To be submitted in a separate sealed cover)

NAME OF THE WORK:

Establishment of Container Terminal and to operate, maintain and manage the same on B O T basis, including, supply, installation and operation of Container Handling Equipment at Multipurpose Berth, Outer Harbour

The Licensee agrees to pay to the Licensor as per Payment Schedule mentioned herein

i) UP-FRONT FEE Rs. \_\_\_\_\_ /- (Rupees \_\_\_\_\_)

It is payable in lumpsum within \_\_\_\_\_ days from the issue of Letter of Intent and before signing the Agreement

ii) ROYALTY per month equivalent to \_\_\_\_ % of the gross revenue earned by the Licensee from the operations of the terminal by levy of or applicable tariff during the month as per Clause 51 of the License Agreement.

iii) Land Rentals for back-up area, and leased in any other V.P.T. area shall be paid by the Licensee at commercial rates for those areas as per Land Lease Agreement to be separately entered into

The approximate area of back-up space is 31,000 sq.mtrs. paved area. The land rental in force as on date is Rs. \_\_\_\_\_ per sq.mtr. per annum.

iv) Charges towards electric power, water, shall be paid by the Licensee as applicable from time to time

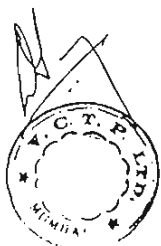
v) The Licensee shall pay all the railway dues as fixed by the Port from time to time to transport the cargo generated at the licensed berth.

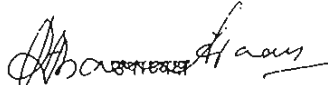
vi) The Licensor is entitled to collect the Berth Hire Charges

vii) Demurrages if any, due to delay, shall be borne by the Licensee only.

viii) Fee as agreed mutually for additional assets and facilities / services provided by the Licensor in due course shall be paid by the Licensor at applicable rates.

P.S : The price proposal superseded by 21A



  
 DY CHAIRMAN  
 విశాఖ పోర్ట్ ట్రస్ట్  
 Visakhapatnam Port Trust  
 విశాఖ పోర్ట్  
 VISAKHAPATNAM-530035

APPENDIX 21 - A**PRICE PROPOSAL**

(To be submitted in a separate sealed cover)

**NAME OF THE WORK:**

Establishment of Container Terminal and to operate, maintain and manage the same on B.O.T. basis, including, supply, installation and operation of Container Handling Equipment at Multipurpose Berth, Outer Harbour.

The Licensee agrees to pay to the Licensor as per the payment schedule mentioned herein.

- i) UPFRONT FEE Rs.3.19 crores (Rupees Three crores and nineteen lakhs).

It is payable in lumpsum within 6 weeks from the issue of letter of Intent and before signing the Agreement.

- ii) ROYALTY in Rupees per TEU shall be specified for the entire license period as per the Attachment No.1.

- iii) Land Rentals for back-up area, and leased in any other VPT area shall be paid by the Licensee at commercial rates for those areas as per Land Lease Agreement to be separately entered into.

The approximate area of back-up space is 42,000 sq.mtrs. paved area. An additional area of 32,000 sq.mtrs. will be available against payment.

- iv) Charges towards electric power, water, shall be paid by the Licensee as applicable from time to time.  
v) The Licensee shall pay all the railway dues as fixed by the port from time to time to cargo generated at the licensed berth.

The Licensee has to pay railway dues for the use of railways in Port premises. However the Licensee has to obtain approval of TAMP/Enforcing Authority with regard to the charges to be collected by him from the consignee/shipper.

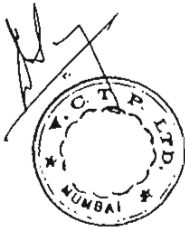
- vi) The Licensor is entitled to collect the Berth Hire Charges and other vessel related charges as detailed elsewhere.

- vii) Demurrages if any, due to delay, shall be borne by the Licensee only.

- viii) Fee as agreed mutually for additional assets and facilities/services provided by the Licensor in due course shall be paid by the Licensee at applicable rates.

Encl: Attachment-1.

Encl: Price proposal furnished by the bidder



*Dr. Anil K. Kulkarni*  
 DR. ANIL K. KULKARNI  
 DY CHAIRMAN  
 विशालदास ट्रस्ट  
 Visakim Trust  
 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100  
 VISAKHAPATNAM-530 035

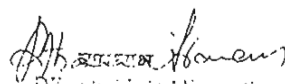
**ATTACHMENT - I**  
(enclosure to Appendix.21A)

**PRICE PROPOSAL**

**MINIMUM GUARANTEED THROUGHPUT, ROYALTY RATES AND  
GROSS AMOUNT PAYABLE**

NO.	YEAR OF COMMERCIAL OPERATION	NO.OF TEUs	RATE PER TEU	GROSS AMOUNT QUOTED IN RS.	DISCOUNT FACTOR	NET PRESENT VALUE WHEN DISCOUNTED AT 16% PER ANNUM
(1)	(2)	(3)	(4)	3x4=(5)	(6)	(7)
		Initial Payable (Up front)		31,900,000	1.000000	31,900,000
1 <sup>st</sup>	year 25/6/02 - 25/6/03	20000	50	1,000,000	0.862069	862,069
2 <sup>nd</sup>	year 25/6/03 - 25/6/05	25000	50	1,250,000	0.743163	928,594
3 <sup>rd</sup>	year 25/6/05 - 25/6/06	47000	50	2,350,000	0.640658	1,505,546
4 <sup>th</sup>	year 25/6/06 - 25/6/07	81600	50	4,080,000	0.552291	2,253,348
5 <sup>th</sup>	year 25/6/07 - 25/6/08	112000	75	8,400,000	0.476113	3,999,349
6 <sup>th</sup>	year 25/6/08 - 25/6/09	140000	75	10,500,000	0.410442	4,309,644
7 <sup>th</sup>	year 25/6/09 - 25/6/10	166400	100	16,640,000	0.353830	5,887,723
8 <sup>th</sup>	year 25/6/10 - 25/6/11	186400	100	18,640,000	0.305025	5,685,675
9 <sup>th</sup>	year 25/6/11 - 25/6/12	204800	200	40,960,000	0.262953	10,770,554
10 <sup>th</sup>	year 25/6/12 - 25/6/13	221600	200	44,320,000	0.226684	10,046,617
11 <sup>th</sup>	year 25/6/13 - 25/6/14	240000	350	84,000,000	0.195417	16,415,020
12 <sup>th</sup>	year 25/6/14 - 25/6/15	240000	350	84,000,000	0.168463	14,150,879
13 <sup>th</sup>	year 25/6/15 - 25/6/16	240000	500	120,000,000	0.145227	17,427,191
14 <sup>th</sup>	year 25/6/16 - 25/6/17	240000	500	120,000,000	0.125195	15,023,440
15 <sup>th</sup>	year 25/6/17 - 25/6/18	240000	500	120,000,000	0.107927	12,951,242
16 <sup>th</sup>	year 25/6/18 - 25/6/19	240000	750	180,000,000	0.093041	16,747,295
17 <sup>th</sup>	year 25/6/19 - 25/6/20	240000	750	180,000,000	0.080207	14,437,324
18 <sup>th</sup>	year 25/6/20 - 25/6/21	240000	750	180,000,000	0.069144	12,445,969
19 <sup>th</sup>	year 25/6/21 - 25/6/22	240000	1000	240,000,000	0.059607	14,305,711
20 <sup>th</sup>	year 25/6/22 - 25/6/23	240000	1000	240,000,000	0.051385	12,332,509
21 <sup>st</sup>	year 25/6/23 - 25/6/24	240000	1100	264,00,0000	0.044298	11,694,621
22 <sup>nd</sup>	year 25/6/24 - 25/6/25	240000	1100	264,000,000	0.038188	10,081,570
23 <sup>rd</sup>	year	240000	1200	288,000,000	0.028380	9,481,100
24 <sup>th</sup>	year	240000	1200	288,000,000	0.028380	8,173,362
25 <sup>th</sup>	year	240000	1300	312,000,000	0.024465	7,633,169
26 <sup>th</sup>	year	240000	1300	312,000,000	0.021091	6,580,318
27 <sup>th</sup>	year	240000	1400	336,000,000	0.018182	6,109,048
28 <sup>th</sup>	year	240000	1400	336,000,000	0.015674	5,266,421
29 <sup>th</sup>	year	240000	1500	360,000,000	0.013512	4,864,305
30 <sup>th</sup>	year	240000	1500	360,000,000	0.011648	4,193,367
NET PRESENT VALUE OF ROYALTY AND UPFRONT						298,463,338



  
 Director  
 Visakhapatnam