

**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

<b>Sl No.</b>	<b>DOCUMENT</b>	<b>QUERY</b>	<b>RESPONSE</b>
1.	RFP	<p>IT IS OUR REQUEST THAT THE AMOUNT OF BID SECURITY (I.E. 35 CRORE) SHALL BE REDUCED TO HALF FROM THE CURRENT ADVISED AMOUNT AS PER RFP DOCUMENT.</p> <p>FURTHER, AS PER MODEL REQUEST FOR PROPOSAL DOCUMENTS FOR THE PORT PROJECT, BID SECURITY AMOUNT SHALL BE 1% OF THE PROJECT COST (WHICH IS WORKED OUT TO BE Rs 17.5 CRORE FOR THE PROJECT)</p>	<p>BID SECURITY STANDS REVISED TO 17.5 CRORES. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014</p>
2.	DCA	<ul style="list-style-type: none"><li>• PLEASE CLARIFY THE PAYMENT STRUCTURE OF LICENSE FEE, IN TERMS OF WHEN THE PAYMENT WILL START (FROM DATE OF AWARD OF CONCESSION OR DATE OF COMMENCEMENT OF OPERATIONS, PAYMENT TO BE MADE AS ADVANCE OR AT THE END OF THE YEAR ETC.)</li><li>• PLEASE PROVIDE THE LEASE RENTAL RATES FOR THE EXTENT OF LAND MENTIONED IN THIS CLAUSE.</li><li>• PLEASE CLARIFY WHAT IS 15% ADDITIONAL LEASE RENTAL FOR PLOT ABUTTING SECOND ROAD.</li><li>• PLEASE HELP US TO UNDERSTAND THE LICENSEE FEE CALCULATION. (POINT 5 IN THEIR DOCUMENT)</li><li>• ARTICLE 9.1 (B) DEALS WITH THE PAYMENT OF LEASE RENT (ON UPFRONT PREMIUM BASIS) FOR THE PROJECT AREA AT THE RATE OF Rs. 621 PER 100 SQ. M. PER MONTH (INCLUDING ADDITIONAL RENT FOR THE PLOT ABUTTING THE SECOND ROAD). IN ADDITION TO LEASE RENT, THE SAID ARTICLE ALSO SEEKS TO LEVY A NOTIONAL RENT OF Rs. 1 FOR THE WHOLE PROJECT AREA.</li></ul> <p>THE RATIONALE FOR LEVYING NOTIONAL RENT FOR THE PROJECT AREA IS NOT CLEAR, PARTICULARLY WHEN ACTUAL RENT IS ALSO LEVIED FOR THE SAME AREA. A</p>	<p>1. THE UPFRONT PREMIUM HAS TO BE PAID AT THE INITIAL STAGE AT ONE GO BEFORE TAKING POSSESSION OF LAND. FOR THE PERIOD OF OCCUPATION EACH YEAR THE PARTY WILL PAY @ Re 1/- PER ANUM AS NOTIONAL RENT. MUNICIPAL TAX, IF ANY ASSESSED BY LOCAL AUTHORITY, WILL ALSO HAVE TO BE PAID BY THE PARTY.</p> <p>2. AS COMMUNICATED, THE CURRENT SOR INCLUSIVE OF 15% EXTRA IS CURRENTLY Rs 621/- PER 100 SQ.M PER MONTH WHICH IS VALID TILL 6.4.2014. THE AFORESAID RATE WILL BE ENHANCED BY 2% AFTER 7.4.2014.</p> <p>3. A COPY OF TAMP NOTIFIED SOR HAS BEEN REFERRED TO. AS PER CLAUSE 8(i) OF THE SAID SCHEDULE RATE FOR PLOTS ABUTTING MORE THAN ONE ROAD HAS TO BE ENHANCED BY 15%.</p>

**DISCLAIMER**

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		CLARIFICATION TO THIS EFFECT IS BE SOUGHT FROM THE AUTHORITY.	<p>4. A COPY OF CALCULATION BREAK UP IS GIVEN BELOW.</p> <p>5. IN TERMS OF THE CLAUSE 1 (II) OF THE AFORESAID SCHEDULE NOTIONAL RENT OF RE 1/- P.A IS BEING CHARGED.</p> <p>CALCULATIONS:</p> <p><u>PORT FACILITIES AT DIAMOND HARBOUR</u></p> <p>TOTAL AREA 90.63 ACRES (APPX.) OR 36.676 HECT. (APPX) OR 366766.47 SQM.</p> <p>SoR- RS. 519/- PER 100 SQM PER MONTH AS ON 07.04.2011</p> <p>RS. 539.97 PER 100 SQM. PER MONTH AS ON 07.04.2013</p> <p>15% EXTRA FOR THE PLOT ABUTTING MORE THAN ONE ROAD <math>539.97 \times 1.15 = \text{RS. } 620.96</math> SAY RS.621/- PER 100 SQM. PER MONTH.</p> <p>366766.47 SQM. @ 621/- PER 100 SQM. PER MONTH RS. 22,77,619.78</p> <p>SERVICE TAX 12.36% <span style="float: right;"><u>RS.</u></span> <u>2,81,513.80</u></p>

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Sl No.	DOCUMENT	QUERY	RESPONSE
			<p>Rs. 25,59,133.58</p> <p>SAY Rs. 25,59,134/-</p> <p>UPFRONT PREMIUM FOR 30 YEARS EQUIVALENT TO 14.762 YEARS RENT</p> <p style="text-align: right;">Rs. 25,59,134/- x 12</p> <p>x 14.762 = Rs. 45,33,35,233.30</p> <p style="text-align: right;">SAY</p> <p>Rs. 45,33,35,233/-</p>
3.	DCA	<ul style="list-style-type: none"> <li>AS PER, CONDITIONS PRECEDENT, FURNISHING OF MANAGEMENT CONTRACT IS REQUIRED.</li> <li>WE UNDERSTAND THAT THIS POINT WILL NOT BE APPLICABLE FOR THE BIDDER WHO HAS O&amp;M EXPERIENCE ITSELF. KINDLY ADVICE.</li> </ul>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA AND CLAUSES ARE SELF EXPLANATORY
4.	DCA	<ul style="list-style-type: none"> <li>KINDLY ADVICE WHAT IS THE INFRASTRUCTURE CESS WHICH IS TO BE COLLECTED FROM USERS BY CONCESSIONAIRE ON BEHALF OF THE CONCESSIONING AUTHORITY?</li> <li>WHAT WILL BE THE BASIS, METHOD AND WORKING OF SUCH INFRASTRUCTURE CESS?</li> </ul>	THE CLAUSE IS SELF-EXPLANATORY
6	DCA	1. WHAT WILL BE THE PROJECTED DRAFT AVAILABLE AT BERTH POCKET?	1. PLEASE SEE 7.1(C)(I)(B) OF DCA ENDEAVOUR WILL BE MADE TO MAINTAIN

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		<p>2. PLEASE ADVISE THE ENVISAGED VESSEL SIZE FOR PROJECT DEVELOPMENT? AS THIS IS GOING TO HAVE A BIG IMPACT IN TERMS OF MARINE CONSTRUCTION AND BUSINESS FORECASTING.</p> <p>3. WHAT ARE THE ADVISED SPECIFICATIONS FOR RMQC?</p> <p>4. WHAT IS THE RATIONAL FOR KEEPING A MOBILE HARBOUR CRANE AS ONE OF THE PROJECT REQUIREMENTS?</p> <p>5. WHAT ARE THE SPECIFICATIONS FOR RAILWAY SIDE CAPACITY FOR THE PROJECT?</p> <p>6. PLEASE HELP US TO UNDERSTAND ABOUT THE EVACUATION GATE CAPACITY FOR BY ROAD CARGO?</p>	<p>A DRAFT OF ABOUT 9.0M</p> <p>2. PLEASE SEE 5.6 AND 8.1.2.1 OF FEASIBILITY REPORT (1200TEUS AND 10000-35000DWT)</p> <p>3. CONCESSIONAIRE IS FREE TO DECIDE ON SPECIFICATION OF RMQC KEEPING IN MIND THE PERFORMANCE STANDARDS AND THE PROJECTED TRAFFIC</p> <p>4. PLEASE SEE 7.4.2(B) OF FEASIBILITY REPORT</p> <p>5. PLEASE SEE 7.4.2(C) , 7.5.4 OF FEASIBILITY REPORT</p> <p>6. PLEASE REFER TO TABLE 6.02 OF FEASIBILITY REPORT</p>
7.	GENERAL	PLEASE ADVISE IF IT WILL BE NEEDED TO EMPLOY PORT BASED LABOUR OR ANY OTHER WORKFORCE FOR PROJECT CONSTRUCTION OR OPERATIONS.	THE CONCESSIONAIRE WILL BE FREE TO EMPLOY LABOUR AS PER THEIR CONVENIENCE.

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8.	DCA	PLEASE ADVISE ABOUT THE FURTHER DEEPENING PLANS FOR APPROACH CHANNEL WHICH HAS BEEN PROPOSED TO BE 9 MTRS. DEEP AT THE TIME OF PROJECT COMMISSIONING.	PLEASE SEE 7.1(C)(I)(B) OF DCA WHICH STATES THAT "ENDEAVOUR WILL BE MADE TO MAINTAIN A DRAFT OF ABOUT 9.0". HOWEVER BEING A RIVERINE PORT, NO GUARANTEE OF DEPTH CAN BE GIVEN. THIS WAS ALSO INDICATED IN KOPT'S REPLY TO THE QUERIES (Sl No. 7) RAISED AT THE TIME OF RFQ AND IS HOSTED IN KOPT'S WEBSITE <a href="http://www.kolkataporttrust.gov.in/Rfq%20Reply%20231112.pdf">HTTP://WWW.KOLKATAPORTTRUST.GOV.IN/Rfq%20Reply%20231112.pdf</a>
9.	DCA	IT HAS BEEN STATED THAT "THE PROJECT SITE TO IS LOCATED AT 22°10'-3.6" N/88°-12'-14.2"E.(APPROX.) ON THE EASTERN BANK OF THE RIVER GANGES (FIGURE 3.1 OF THE TECHNICAL FEASIBILITY REPORT) WITH THE FOLLOWING BOUNDARIES"  THE ABOVE STATED DRAWING IS NOT AVAILABLE IN THE FEASIBILITY REPORT. PLEASE FURNISH THE SAME IN AUTOCAD FORMAT WITH CO-ORDINATE SYSTEM	FIG 3.1 AND AUTOCAD DRAWING OF THE PROJECT SITE IS AVAILABLE FROM THE NODAL OFFICER OF THE PROJECT
10.	DCA	PLEASE FURNISH THE AUTOCAD DRAWING OF THE PROPOSED AREA / LAND WHERE, DEVELOPMENT SHALL BE DONE. ALSO PLEASE CLARIFY THAT HOW MUCH WATER AND POWER WILL BE AVAILABLE ALONG WITH THE TAPPING POINT. ALSO PLEASE CLARIFY THAT IN CASE IF ADDITIONAL POWER AND WATER (OTHER THAN AVAILABLE) FOR THE TERMINAL CONSTRUCTION AND OPERATION IS REQUIRED, WHERE WILL BE THE TAPPING POINT OR SOURCES OF THE SAME.	ARTICLE 7.2 OF THE CONCESSION AGREEMENT HAS BEEN AMENDED. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014  FOR ALL DETAILS RELATING TO SUPPLY OF ELECTRICITY AND WATER, THE BIDDER NEED TO CONTACT WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LTD. AND DIAMOND

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			HARBOUR MUNICIPALITY RESPECTIVELY
11.	DCA	IT HAS BEEN STATED THAT "THE ENTIRE PROJECT AREA AS PER TECHNICAL FEASIBILITY REPORT IS 35.956 HA. AN INDICATIVE LAYOUT OF THE PROPOSED TERMINAL IS GIVEN IN DRG NO. 2008018/LA-01 OF THE TECHNICAL FEASIBILITY REPORT.  PLEASE FURNISH THE SAME DRAWING IN AUTO CAD FORMAT FOR REALISTIC BID ASSESSMENT.	PROJECT AREA IS 36.956 AND NOT 35.956 HA.
12.	DCA	PLEASE FURNISH THE AUTOCAD DRAWING OF THE PROPOSED AREA / LAND WHERE, DEVELOPMENT SHALL BE DONE.  ALSO PLEASE CLARIFY THAT HOW MUCH WATER AND POWER WILL BE AVAILABLE ALONG WITH THE TAPPING POINT. ALSO PLEASE CLARIFY THAT IN CASE IF ADDITIONAL POWER AND WATER (OTHER THAN AVAILABLE) FOR THE TERMINAL CONSTRUCTION AND OPERATION IS REQUIRED, WHERE WILL BE THE TAPPING POINT OR SOURCES OF THE SAME.  ALSO PLEASE FURNISH THE DETAILS OF RELIABILITY OF WATER AVAILABILITY FROM THE NEAREST AVAILABLE WATER LINE. PLEASE FURNISH THE WATER CHARGES.  PLEASE FURNISH THE QUALITY OF THE WATER FROM THE NEAREST AVAILABLE WATER LINE.	PLEASE REFER TO REPLY GIVEN AGAINST Q9 & Q10
13.	DCA	1. THE LIST OF THE EQUIPMENTS HAS BEEN SHOWN IN THIS SECTION TO HANDLE THE 1.2 M TEU CONTAINER CARGO IN ACCORDANCE WITH THE PERFORMANCE STANDARDS.  AUTHORITY TO PLEASE CLARIFY THAT WHETHER BIDDER CAN ALTER SCHEME AND REQUIREMENT OF THE EQUIPMENT TO MATCH THE PROJECT REQUIREMENT OR CHANGE THE TYPE OF EQUIPMENT TO MEET THE PROJECT REQUIREMENT?  2. IT HAS BEEN STATED THAT FOR THE PROPOSED DEVELOPMENT SHALL BE WITH JETTY WITH APPROACH. AUTHORITY TO PLEASE CLARIFY THAT WHETHER BIDDER CAN ALTER SCHEME OF THE JETTY SUCH AS CONTINUOUS CONNECTIVITY BY PROVIDING ROCK BUND	1. <b>ANY CHANGE IN THE SCOPE OF WORK OR PROJECT CONFIGURATION Will REQUIRE FRESH APPROVAL FROM PPPAC HENCE CANNOT BE ACCEDDED TO</b> 2. = Do = 3. RAILWAY FACILITY AS ENVISAGED IS LINKED TO THE SAGAR PORT CONNECTIVITY AND IT HAS BEEN ENVISAGED THAT IT MAY COME UP IN

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		<p>BELOW JETTY WITHOUT CHANGING THE REQUIREMENT OF THE PROJECT?</p> <p>3. IT CAN BE UNDERSTOOD THAT ONLY RAILWAY YARD FACILITY SHALL BE IN THE CONCESSIONAIRE SCOPE AND THE CONNECTIVITY FROM THE NEAREST TAPPING POINT TO THE PROPOSED RAILWAY YARD IS IN THE SCOPE OF CONCESSIONING AUTHORITY. PLEASE CLARIFY.</p> <p>4. IT HAS BEEN STATED THAT THE CONCESSIONAIRE HAS TO PROVIDE FACILITY OF THE 2 BG TRACK WITH FULL RAKE LENGTH. FROM THIS IT CAN BE UNDERSTOOD THAT ONE LOADING LINE AND ONE ENGINE ESCAPE LINE SHALL BE DEVELOPED AND OPERATION IN THE RAILWAY YARD WILL BE THROUGH REACH STACKER. PLEASE CLARIFY.</p>	<p>2024-25 ONLY. AS AND WHEN THE RAILWAY CONNECTIVITY COMES UP, THE CONNECTIVITY BETWEEN THE NEAREST RAILHEAD AND THE PROJECT SITE WILL HAVE TO BE SETUP / ESTABLISHED BY THE CONCESSIONAIRE AT THEIR OWN COST AND EFFORT.</p> <p>4. 2 BG TRACKS PLUS ONE ENGINE ESCAPE LINE</p>
14.	DCA	IT HAS BEEN STATED THAT CONCESSIONING AUTHORITY HAS GOT ENVIRONMENTAL CLEARANCE FROM THE MOEF. PLEASE FURNISH THE COPY OF THE SAME.	ENVIRONMENTAL CLEARANCE IS UNDER PROCESS
15.	.2.4	<ul style="list-style-type: none"> <li>IT HAS BEEN STATED THAT "JETTY IS ON THE RIVER AND SUBJECTED TO TIDE AND CURRENT, WHICH REQUIRE TO ACCESS THE SHIP SIMULATION FOR BERTHING AND MOORING THROUGH MODELLING STUDY."</li> </ul> <p>IN THIS REGARD PLEASE CLARIFY THAT ANY MODEL STUDY HAS BEEN CARRIED OUT BY THE PORT AUTHORITY OR NOT? IF YES PLEASE PROVIDE THE REPORT FOR FURTHER ANALYSIS.</p> <ul style="list-style-type: none"> <li>PLEASE FURNISH THE FIGURE 2-1 TO FIGURE 2-7 IN AUTO CAD FORMAT SUPERIMPOSING THE PROPOSED CONTAINER JETTY SO THAT WATER DEPTH NEAR THE JETTY CAN BE KNOWN.</li> <li>IT IS UNDERSTOOD THAT IN CASE IF ANY DREDGING IS REQUIRED FOR THIS JETTY, THE SAME WILL BE DONE BY PORT AUTHORITY. PLEASE CLARIFY.</li> </ul>	STUDIES DONE BY THE CONCESSIONING AUTHORITY FROM TIME TO TIME IN CONNECTION WITH THIS PROJECT WILL BE SHARED WITH THE SUCCESSFUL BIDDER.
16.	FEASIBILITY REPORT	Fig 3.1 NOT AVAILABLE	PLEASE REFER TO REPLY GIVEN AGAINST Q9

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17.	FEASIBILITY REPORT	<p>FOLLOWING ARE REQUIRED TO BE CLARIFY IN REGARD WITH RAILWAY WORKS</p> <ol style="list-style-type: none"><li>1. THE LAND FOR EXCHANGE YARD SEEMS TO BELONG TO RAILWAY AS OLD RAILWAY LINE FOOTPRINTS (NOW FADED) APPEAR THERE. BUT THE STRETCH IS ENCROACHED, WHEN WILL PORT HAND OVER THE STRETCH FREE OF ENCROACHMENTS? HOW THE LAND LICENSING OF THIS LAND STRETCH BE DONE?</li><li>2. PROBABLE CONNECTION OF RAIL CONNECTIVITY IS SHOWN WITH DIAMOND HARBOUR H STATION, BUT THE STRETCH IS DENSE AND POPULATED, PORT SHOULD PROVIDE UNHINDERED ACCESS TO THE CONNECTIVITY LINE</li><li>3. HANDING OVER THE LAND FREE OF OBSTRUCTION FOR CONSTRUCTION OF RAILWAY LINES FOR EXCHANGE YARD AND CONNECTION WITH DIAMOND HARBOUR STATION.</li><li>4. NH-117 IS SEEN TO BE CROSSING THE PROPOSED RAIL TRACK JUST OUTSIDE LOADING YARD, WILL THIS BE DIVERTED BY THE PORT OR WILL PORT PROVIDE ROB COVERING THE EXCHANGE YARD AND HANDLING YARD?</li><li>5. WHO WILL INTERACT WITH SER / ER? PORT SHOULD ARRANGE FOR NECESSARY PERMISSIONS TO CONNECT TO THE EXISTING RAIL NETWORK.</li><li>6. AS PER DCA TWO LOADING LINES WITH ADEQUATE LENGTHS WILL HAVE TO BE CONSTRUCTED BY THE CONCESSIONAIRE, DOES IT MEAN THAT THE CONNECTIVITY LINE FROM HANDLING YARD TO DH STATION AND THE EXCHANGE YARD ARE BEYOND THE SCOPE OF CONCESSIONAIRE.</li><li>7. THERE IS CONTRADICTION IN CL. 7.5.4 OF FEASIBILITY REPORT AND PARA 4.1.6 OF DCA. IN FEASIBILITY REPORT THERE IS A MENTION OF 3 TRACKS AND IN DCA ONLY TWO LINES IN PLANT ARE PROPOSED. CONTRADICTION NEED TO BE CLEARED.</li><li>8. AS PER DCA, INDEPENDENT ENGINEER IS TECHNICALLY COMPETENT BODY TO</li></ol>	<ol style="list-style-type: none"><li>1. PLEASE REFER TO THE REPLY GIVEN AGAINST Q13</li><li>2. (2 TO 5) THE CONNECTIVITY WHICH HAS BEEN ENVISAGED FOR 2024-25 MAY NOT BE THROUGH THE SAME CORRIDOR.</li><li>3. (6 TO 8) PLEASE REFER TO THE ANSWER GIVEN AGAINST Q13 ABOVE</li></ol>

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		CLEAR ALL BID RELATED CONSTRUCTION ACTIVITY INCLUDING RAILWAY THEREBY FACILITATING BIDDER NOT TO ENTER INTO ANY INTERFACE WITH IR.	
18.	FEASIBILITY REPORT	IT HAS BEEN STATED THAT BERTH ALIGNMENT HAS BEEN PROPOSED PARALLEL TO THE FLOW LINE OF HUGLI RIVER AND THIS NEEDS TO BE FINE TUNED BASED ON THE MATHEMATICAL MODEL AND HYDROLOGICAL STUDY. PLEASE CLARIFY THAT AUTHORITY WILL ALLOW THE CONCESSIONAIRE TO CHANGE THE ALIGNMENT BASED ON THE STUDY AND WHAT IF THERE WILL BE ANY SHIFTING OF JETTY IS REQUIRED?	<b>ANY CHANGE IN THE SCOPE OF WORK OR PROJECT CONFIGURATION WILL REQUIRE FRESH APPROVAL FROM PPPAC HENCE CANNOT BE ACCEDED TO</b>
19.	FEASIBILITY REPORT	PLEASE FURNISH THE PARAMETER OF THE WATER QUALITY FOR THE INTAKE WATER TO BE USED FOR FIRE FIGHTING.  CAN CONCESSIONAIRE SELECT MOC OF PIPE (FOR FIRE FIGHTING SYSTEM) BASED ON THE WATER QUALITY?	PLEASE REFER TO REPLY GIVEN AGAINST Q10
20.	GENERAL SUB-SOIL INVESTIGATION	FOLLOWING ARE THE GENERAL QUERIES RELATED TO SUB SOIL INVESTIGATION WORK  1. WHETHER THE SUB-SOIL INVESTIGATION REPORT, TEST LOCATIONS, FIELD BORE-LOGS,	1. SUB-SOIL INVESTIGATION REPORT CARRIED OUT BY JADAVPUR UNIVERSITY WILL BE MADE AVAILABLE. PLEASE

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	ON	LABORATORY TEST RESULTS ETC CAN BE MADE AVAILABLE.  2. WHETHER ANY SUB-SOIL DATA IS AVAILABLE ALONG THE PROPOSED BACK-UP STACKING YARD,  3. WHETHER BIDDER CAN EXPLORE ANY OTHER FOUNDATION TYPE (OTHER THAN THE PILE AS PROPOSED IN RFP) FOR THE PROPOSED STRUCTURES.  4. WHETHER PRELIMINARY DESIGN CARRIED OUT FOR VARIOUS STRUCTURES AS INDICATED IN RFP, CAN BE MADE AVAILABLE.	ARRANGE TO COLLECT THE SAME FROM THE OFFICE OF THE NODAL OFFICER OF THE PROJECT.  2. AS ABOVE  3. ANY CHANGE IN THE SCOPE OF WORK OR PROJECT CONFIGURATION WILL REQUIRE FRESH APPROVAL FROM PPPAC HENCE CANNOT BE ACCEDDED TO  4. RFP DOES NOT CONTAIN ANY DESIGN THEREFORE THE QUESTION IS NOT CLEAR.
21.	ELECTRICAL WORKS	FOLLOWING ARE THE GENERAL QUERIES RELATED TO ELECTRICAL WORKS  IN FINAL FEASIBILITY STUDY REPORT CLOSE NO 7.5.6, PAGE NO-61, ABOUT POWER SUPPLY.  1) IF POWER SUPPLY HAS TO BE TAKEN FROM EXISTING DH SUBSTATION ABOUT 2 KM FROM THE PROPOSED CONTAINER YARD SITE THEN, WHAT IS THE DEMAND MARGIN AVAILABLE IN EXISTING DH SUBSTATION AS ON TODAY & WHAT RATING & NOS (AMP) OF SPARE EXISTING BREAKER & HOW MUCH MINIMUM DEMAND IS POSSIBLE TAKEN FROM THEIR EXISTING FACILITY.  2) IF NO SPARE POWER CAPACITY IS AVAILABLE IN EXISTING SOURCE OF POWER (DH SUBSTATION ABOUT 2 KM FROM THE PROPOSED SITE ), SO, AS PER FINAL FEASIBILITY STUDY REPORT CLOSE NO 7.5.6 , PAGE NO-62, THERE IS ANOTHER NEAREST 33 KV SOURCE IS AVAILABLE ABOUT 20 KM FROM PROPOSED CONTAINER YARD SITE, THEN WHAT IS THE DEMAND MARGIN AVAILABLE IN EXISTING NEAREST SUBSTATION (20 KM FROM PROPOSED SITE) AS ON TODAY & WHAT RATING & NOS (AMP) OF SPARE EXISTING BREAKER & HOW	PLEASE REFER TO REPLY GIVEN AGAINST Q10

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		<p>MUCH MINIMUM DEMAND IS POSSIBLE TAKEN FROM THEIR EXISTING FACILITY.</p> <p>3) PLEASE PROVIDE SOUSE (EITHER FROM 2 KM OR 20 KM ) OF INCOMING POWER WITH REQUIRED CORRIDOR DETAIL ( TROUGH OVER HEAD/ THROUGH UNDERGROUND CABLE ) IN LAY OUT.</p> <p>4) SPARE BAY / BREAKER IS ALREADY AVAILABLE OR NEEDS TO BE DEVELOPED? IS AVAILABLE, PLEASE PROVIDE FAULT LEVEL &amp; BUS BAR RATING.</p> <p>5) THE DETAILS OF POWER QUALITY, RELIABILITY, PENALTY &amp; INCENTIVE FOR POWER FACTOR.</p> <p>6) THE CONSTRUCTION POWER WILL BE SUPPLIED BY PORT AUTHORITY OR NOT? IF CONSTRUCTION POWER SUPPLIED BY PORT THEN WHAT FORMALITIES TO BE DONE FOR TAKING CONSTRUCTION POWER FROM PORT AUTHORITY AND LEAD TIME FOR GETTING CONSTRUCTION POWER FROM PORT AUTHORITY.</p>	
22.	GENERAL – MARINE STUDIES	<p>PLEASE FURNISH THE BELOW LISTED STUDIES CARRIED OUT FOR THE PROPOSED DEVELOPMENT.</p> <ul style="list-style-type: none"><li>• SUB SOIL INVESTIGATION REPORT FOR OFFSHORE AND ON SHORE LOCATION</li><li>• TOPOGRAPHY OF THE PROPOSED LOCATION</li><li>• HYDRAULIC MODELLING STUDIES (WAVE AND CURRENT)</li></ul>	<ul style="list-style-type: none"><li>• PLEASE REFER TO THE REPLIES GIVEN FOR Q-20(1)</li><li>• PLEASE REFER TO THE REPLIES GIVEN FOR Q-15</li><li>• SAME AS ABOVE</li></ul>
23.	GENERAL UTILITIES	<p>FOLLOWING ARE THE GENERAL QUERIES FOR UTILITIES.</p> <ol style="list-style-type: none"><li>1. PROVIDE THE SOURCE AND TAPPING POINT OF WATER FOR THE PROPOSED PROJECT WITH PROPER COORDINATE SYSTEM IN AUTO CAD FORMAT.</li><li>2. PROVIDE THE QUANTUM OF WATER AVAILABLE FOR THE PROPOSED PROJECT DURING CONSTRUCTION PERIOD AS WELL AS DURING OPERATION PERIOD.</li></ol>	<ol style="list-style-type: none"><li>1. PLEASE REFER TO REPLY GIVEN AGAINST Q9 &amp; Q10</li><li>2. SAME AS ABOVE</li><li>3. PLEASE REFER TO FEASIBILITY REPORT 7.5.2</li></ol>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

<b><i>Sl No.</i></b>	<b><i>DOCUMENT</i></b>	<b><i>QUERY</i></b>	<b><i>RESPONSE</i></b>
		3. GIVEN DOCUMENTS DO NOT MENTION ANYTHING ABOUT FENCING AND COMPOUND WALL. PLEASE PROVIDE REQUIREMENTS OF FENCING AND / OR COMPOUND WALL SUCH AS HEIGHT, LENGTH, LOCATION, TYPE AND OTHER SPECIFIC REQUIREMENT.	
24.	DCA	<p>DEFINITION OF DATE OF COMMERCIAL OPERATION:</p> <p>THE DEFINITION OF DATE OF COMMERCIAL OPERATION REFERS TO THE DATE ON WHICH CONCESSIONAIRE RECEIVES THE COMPLETION CERTIFICATE. WE UNDERSTAND THAT THE PROJECT HAS TO BE IMPLEMENTED IN TWO PHASES/MILESTONES AS PER THE PROJECT SCHEDULE AND AT THE COMPLETION OF EACH PHASE/MILESTONE A CERTIFICATE OF COMPLETION HAS TO BE ISSUED BY THE INDEPENDENT ENGINEER. FURTHER, AS PER THE PROVISIONS OF ARTICLE 7.1(B) (iii) OF THE CONCESSION AGREEMENT, THE CONCESSIONAIRE CAN COMMENCE COMMERCIAL OPERATIONS UPON COMPLETION OF PHASE I/MILESTONE EVENT 1 AND CONTINUE WITH THE DEVELOPMENT OF PHASE II/MILESTONE EVENT 2. IN LIGHT OF THIS ARRANGEMENT, THE DEFINITION SHOULD BE AMENDED SUCH THAT SEPARATE DATES OF COMMERCIAL OPERATION CAN BE IDENTIFIED FOR EACH PHASE/MILESTONE EVENT.</p>	REQUEST CANNOT BE ACCEDED TO
25.	DCA	<p>DEFINITION OF DEBT DUE:</p> <p>THE DEFINITION OF DEBT DUE INCLUDES DEBT AVAILED BY THE CONCESSIONAIRE TOWARDS THE ACTUAL PROJECT COST OF THE PROJECT. HOWEVER, IT DOES NOT INCLUDE THE DEBT WHICH MAY BE AVAILED BY THE CONCESSIONAIRE FOR FUNDING THE ADDITIONAL COST (I.E. THE CAPITAL EXPENDITURE INCURRED BY THE CONCESSIONAIRE AS A RESULT OF CHANGE IN LAW). AS A RESULT, SUCH ADDITIONAL COST WILL NOT BE TAKEN INTO ACCOUNT WHILE DETERMINING THE TERMINATION PAYMENTS UNDER THE CONCESSION AGREEMENT AND WILL NOT BE COMPENSATED BY THE CONCESSIONING AUTHORITY ("AUTHORITY"). THEREFORE, IT IS SUGGESTED THAT THE ADDITIONAL COST (TO THE EXTENT THAT IS NOT COMPENSATED BY THE AUTHORITY UNDER THE PROVISIONS OF THE CONCESSION AGREEMENT AND AGAINST WHICH FACILITIES HAVE BEEN AVAILED BY THE CONCESSIONAIRE</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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		<p>FROM THE LENDERS) SHOULD BE INCLUDED WHILE CALCULATING THE TERMINATION PAYMENTS DUE TO THE CONCESSIONAIRE ON THE TRANSFER DATE. NECESSARY AMENDMENTS SHOULD BE MADE TO THE DEFINITION OF DEBT DUE.</p> <p>THE TERM DEBT DUE INCLUDES ONLY THOSE SUMS ADVANCED BY THE LENDERS TOWARDS THE ACTUAL PROJECT COST WHICH ARE EXPRESSED IN INDIAN RUPEES. THEREFORE, THE SAID TERM DOES NOT INCLUDE ANY FINANCIAL FACILITIES AVAILED BY THE CONCESSIONAIRE IN FOREIGN CURRENCY FOR FUNDING THE ACTUAL PROJECT COST. IT IS THEREFORE SUGGESTED THAT REFERENCE TO INDIAN RUPEES IN THE DEFINITION SHOULD BE REMOVED.</p>	
26.	DCA	THE DEFINITION OF PROJECT CONTRACTS IS INCOMPLETE AND TO COMPLETE IT WE REQUEST THE WORDS "IN RESPECT OF" IN THE LAST LINE OF THE DEFINITION SHOULD BE DELETED.	THE REQUEST CANNOT BE ACCEDED TO
36	DCA	<p>THE AUTHORITY HAS WARRANTED THAT THE CONCESSIONAIRE SHALL HAVE PEACEFUL OCCUPATION OF THE PROJECT SITE AND PORT'S ASSETS AND IN THE EVENT THE CONCESSIONAIRE'S PEACEFUL OCCUPATION IS OBSTRUCTED BY ANY CLAIMS AND PROCEEDINGS, THE AUTHORITY SHALL (IF CALLED UPON BY THE CONCESSIONAIRE) DEFEND SUCH CLAIMS AND PROCEEDINGS.</p> <p>THE COST OF SUCH DEFENCE SHOULD BE EXCLUSIVELY BORNE BY THE AUTHORITY. HOWEVER, THIS ARTICLE IS NOT CLEAR ON THE ASPECT OF BEARING OF SUCH LEGAL EXPENSES AND SHOULD BE AMENDED TO PROVIDE THAT THE AUTHORITY SHALL BEAR THE COST OF DEFENDING SUCH CLAIMS AND PROCEEDINGS AT ITS SOLE COST AND EXPENSE.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
37	DCA	ARTICLE 3.1(A) OF THE DCA SETS FORTH THE CONDITIONS PRECEDENT ("CPS") TO BE SATISFIED BY THE CONCESSIONAIRE. ARTICLE 3.5 SETS OUT THE LIQUIDATED DAMAGES	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT

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<b><i>Sl No.</i></b>	<b><i>DOCUMENT</i></b>	<b><i>QUERY</i></b>	<b><i>RESPONSE</i></b>
		<p>PAYABLE BY THE CONCESSIONAIRE IF IT FAILS TO ACHIEVE THE CPs WHICH ARE WITHIN THE POWER OF THE CONCESSIONAIRE. THEREFORE, FOR THE PURPOSES OF LEVY OF LIQUIDATED DAMAGES IT APPEARS THAT NON FULFILMENT OF CPs WHICH ARE NOT WITHIN THE POWER OF THE CONCESSIONAIRE IS TREATED MORE FAVOURABLY THAN THE NON FULFILMENT OF CPs WHICH ARE WITHIN THE POWER OF THE CONCESSIONAIRE.</p> <p>AS PER ARTICLE 3.6 OF THE DCA IF THE CONCESSIONAIRE FAILS TO FULFIL THE CPs WITHIN THE TIMELINES SET OUT UNDER THE DCA, THE AUTHORITY IS ENTITLED TO TERMINATE THE DCA AND FORFEIT THE BID SECURITY. HOWEVER, THIS ARTICLE DOES NOT CATEGORISE THE CPs INTO THE ONES WHICH ARE WITHIN THE POWER OF THE CONCESSIONAIRE AND THE ONES WHICH ARE NOT. IT IS THEREFORE SUGGESTED THAT NON FULFILMENT OF CPs WHICH ARE NOT WITHIN THE POWER OF THE CONCESSIONAIRE SHOULD BE TREATED DIFFERENTLY ALSO IN RELATION TO ARTICLE 3.6 AND BEFORE THE AUTHORITY EXERCISES ITS DISCRETION TO TERMINATE THE DCA, IT SHOULD ENGAGE WITH THE CONCESSIONAIRE AND AGREE ON A REASONABLE EXTENSION.</p> <p>WITH RESPECT TO EXTENSION OF TIME PROVIDED BY THE AUTHORITY UNDER ARTICLE 3.3, THERE ALSO HAS TO BE DAY TO DAY EXTENSION OF THE TIME LIMIT FOR ACHIEVING THE CPs.</p> <p>ADDITIONALLY THE DCA SHOULD ALSO PROVIDE FOR LIQUIDATED DAMAGES IF THE DELAY IN ACHIEVEMENT OF THE CPs IS SOLELY ATTRIBUTABLE TO A DELAY OR DEFAULT OF THE AUTHORITY THEN THERE SHOULD NOT BE ANY LIQUIDATED DAMAGES (LD) ON CONCESSIONAIRE OR TERMINATION OF AGREEMENT.</p>	OF INDIA
38	DCA	ARTICLE 6.4 (E) PROVIDES FOR INSPECTION OF PROJECT SITE BY THE REPRESENTATIVES OF THE AUTHORITY. FURTHER, THE REPRESENTATIVES INSPECTING THE PROJECT SITE AND THE CONSTRUCTION WORK SHOULD STRICTLY FOLLOW THE SAFETY STANDARDS AND PRECAUTIONS APPLICABLE TO THE PROJECT SITE, FAILING WHICH THE CONCESSIONAIRE SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE TO LIFE OR PROPERTY.	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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39	DCA	<p>ARTICLE 6.7 (A) READ WITH ARTICLE 6.7 (C):</p> <p>ARTICLE 6.7 (A) PROVIDES FOR TESTING OF THE CONSTRUCTION WORK BY THE INDEPENDENT ENGINEER SO AS TO ENSURE THAT THE WORK MEETS CONSTRUCTION STANDARDS AS PROVIDED UNDER APPENDIX 7.</p> <p>ARTICLE 6.7 (C) PROVIDES THAT IF THE TESTS ARE SUCCESSFUL, THE INDEPENDENT ENGINEER SHALL ISSUE A COMPLETION CERTIFICATE TO THE CONCESSIONAIRE AND THE AUTHORITY. HOWEVER, THE SAID ARTICLE DOES NOT PROVIDE FOR A SITUATION WHERE THE TESTS ARE NOT SUCCESSFUL. IT IS THEREFORE SUGGESTED THAT IN THE EVENT THE TESTS ARE NOT SUCCESSFUL, THE CONCESSIONAIRE SHOULD BE ENTITLED TO ASSESS AND IDENTIFY THE REASON FOR SUCH FAILURE AND REMEDY/RECTIFY THE CONSTRUCTION WORKS (AT ITS COST AND EXPENSE) AND RE-PERFORM THE CONCERNED TESTS. IF UPON SUCH RE-TEST, THE CONSTRUCTION WORKS CONFORM TO THE CONSTRUCTION STANDARDS, THE INDEPENDENT ENGINEER SHOULD ISSUE THE COMPLETION CERTIFICATE.</p> <p>ARTICLE 6.7(E):</p> <p>ARTICLE 6.7(E) OF THE DCA PROVIDES THAT IF THE CONSTRUCTION WORKS ARE NOT COMPLETED DUE TO (A) FORCE MAJEURE; OR (B) REASONS SOLELY ATTRIBUTABLE TO THE AUTHORITY, THE AUTHORITY MAY REDUCE THE SCOPE OF THE PROJECT.</p> <p>HOWEVER, THE SAID ARTICLE FURTHER PROVIDES THAT IN CASE OF SUCH REDUCTION OF SCOPE, THE CONCESSIONAIRE WILL HAVE TO PAY 80% OF THE SUM SAVED DUE TO SUCH REDUCTION OF SCOPE TO THE AUTHORITY. THE RATIONALE BEHIND SHARING OF SAVINGS ON CONSTRUCTION WORKS WITH THE AUTHORITY IS NOT CLEAR BECAUSE (A) THE REDUCTION OF SCOPE OF THE PROJECT IS DUE TO REASONS NOT ATTRIBUTABLE TO THE CONCESSIONAIRE; AND (B) OTHER THAN PAYMENT OF LICENSE FEE AND ROYALTY (WHICH IS LINKED TO THE REVENUES OF THE CONCESSIONAIRE), THERE ARE NO OTHER REGULAR PAYMENT OBLIGATIONS ON THE CONCESSIONAIRE UNDER THE DCA. IT IS THEREFORE</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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<b><i>Sl No.</i></b>	<b><i>DOCUMENT</i></b>	<b><i>QUERY</i></b>	<b><i>RESPONSE</i></b>
		SUGGESTED THAT THIS ARTICLE SHOULD BE DELETED.	
40	DCA	<p>ARTICLE 6.8 (c):</p> <p>ARTICLE 6.8 DEALS WITH CHANGE OF SCOPE OF THE PROJECT. IF THE CONCESSIONAIRE RECEIVES NOTICE FROM THE AUTHORITY FOR CHANGE OF SCOPE, THE CONCESSIONAIRE IS REQUIRED TO PROVIDE (A) DETAILS OF THE ADVERSE IMPACT OF SUCH CHANGE ON THE PROJECT; AND (B) THE ESTIMATE OF COST TO BE INCURRED. IT IS IMPORTANT THAT IN ADDITION TO THESE TWO CONSIDERATIONS, THE AUTHORITY SHOULD ALSO CONSIDER THE TIME WHICH MAY BE REQUIRED TO COMPLETE THE NEW SCOPE OF WORK.</p> <p>IT IS THEREFORE SUGGESTED THAT THE CONCESSIONAIRE SHOULD ALSO SUGGEST THE ESTIMATED TIME OF CARRYING OUT OF SUCH CHANGE OF SCOPE AND THE AUTHORITY SHOULD UPFRONT AGREE ON SUCH TIMELINES AND IF NEED BE CONSIDER AN EXTENSION TO THE CONCESSION PERIOD.</p> <p>ARTICLE 6.8 (D) AND (G):</p> <p>THE ASSETS CREATED PURSUANT TO THE CHANGE OF SCOPE (WHETHER UNDER THE PROVISIONS OF ARTICLE 6.8 (A) TO (D) OR ARTICLE 6.8 (G) (I.E. THROUGH COMPETITIVE BIDDING)) SHOULD ALSO FORM PART OF THE CONCESSION. IF THE CHANGE OF SCOPE IS PROPOSED TO BE UNDERTAKEN THROUGH THE COMPETITIVE BIDDING ROUTE, THE NEW CONTRACTOR SHOULD HAVE THE OBLIGATION TO PERFORM ITS SCOPE OF WORK IN A MANNER THAT IT DOES NOT DISTURB THE PERFORMANCE OF THE CONCESSIONAIRE'S WORK.</p> <p>FURTHER, THE AUTHORITY SHOULD NOT UNDERTAKE COMPETITIVE BIDDING (PURSUANT TO ARTICLE 6.8(g)) AT THE SAME TIME WHEN THE DISAGREEMENT ON THE CHANGE OF SCOPE IS BEING RESOLVED BY THE EXPERT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 6.8 (D).</p> <p>ARTICLE 6.8 (H):</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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		UNDER THE PROVISIONS OF ARTICLE 6.8 (H), THE CONCESSIONAIRE CAN PROPOSE CHANGE OF SCOPE IF IN ITS OPINION SUCH CHANGES IS NECESSARY FOR PROVIDING SAFER AND/OR IMPROVED PROJECT FACILITIES AND SERVICES. AS PER THE SAID ARTICLE, THE PECUNIARY LIMITATIONS ON THE COST OF IMPLEMENTING THE CHANGE OF SCOPE (BOTH SINGLE AND CUMULATIVE) AS SET OUT IN ARTICLE 6.8 (A) ARE ALSO APPLICABLE TO THE CHANGE SUGGESTED BY THE CONCESSIONAIRE. IT IS SUGGESTED THAT THE LIMITS UNDER ARTICLE 6.8(A) SHOULD NOT BE APPLICABLE TO THE CHANGE OF SCOPE PROPOSED BY THE CONCESSIONAIRE, PARTICULARLY WHEN THE AUTHORITY HAS COMPLETE DISCRETION IN ACCEPTING OR REJECTING SUCH SUGGESTIONS.	
41	DCA	ARTICLE 6.9 DEALS WITH THE LEVY OF LIQUIDATED DAMAGES FOR DELAY IN ACHIEVEMENT OF MILESTONES. IN RELATION TO THE ACHIEVEMENT OF COD, IF THE CONCESSIONAIRE FAILS TO ACHIEVE ANY RELEVANT MILESTONES BUT ACHIEVES THE COD WITHIN THE OVERALL TIME FRAME, THEN NO LIQUIDATED DAMAGES SHOULD BE PAYABLE. THEREFORE, THE LIQUIDATED DAMAGES FOR THE FAILURE TO ACHIEVE THE COD SHOULD BE PAYABLE ONLY AFTER THE SCHEDULED COMMERCIAL OPERATION DATE	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
42	DCA	ARTICLE 7.1 (A) (I) (H):  AS PER ARTICLE 7.1(A)(I)(H), EXCEPT FOR THE PRIORITY AND PREFERENTIAL BERTHING AUTHORISED IN ACCORDANCE WITH THE STATUTORY GUIDELINES, THE PROJECT FACILITIES AND SERVICES HAVE TO BE OFFERED ON A FIRST COME FIRST SERVE BASIS. WE UNDERSTAND THAT TYPICALLY IN RELATION TO CONTAINER CARGO, IT IS DIFFICULT TO SERVICE CONTAINER VESSELS ON A FIRST COME-FIRST SERVE BASIS AND THAT SUCH CARGO WILL HAVE TO SERVICED THROUGH THE WINDOWS THAT WILL BE PROVIDED TO THE SHIPPING LINES. IN LIGHT OF THIS A SUITABLE AMENDMENT TO THE ARTICLE SHOULD BE SUGGESTED.	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
43	DCA	7.1 (A) (XIII):  ARTICLE 7.1 (A) (XIII) REQUIRES THE CONCESSIONAIRE TO DEFEND AND INDEMNIFY THE AUTHORITY AGAINST ANY ACTION BY ANY THIRD PARTY ALLEGING LOSS, DESTRUCTION OR	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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		DETERIORATION OF THE GOODS OF WHICH CHARGE HAS BEEN TAKEN BY THE CONCESSIONAIRE. IN THE EVENT THE CONCESSIONAIRE SO DEFENDS AND INDEMNIFIES THE AUTHORITY, IT SHOULD HAVE THE ABILITY TO COMPROMISE OR SETTLE SUCH ACTIONS WITHOUT REQUIRING PRIOR CONSENT OF THE AUTHORITY/INDEMNITEES SO LONG AS SUCH COMPROMISE OR SETTLEMENT DOES NOT PREJUDICIALLY AFFECT THE AUTHORITY, FINANCIALLY OR OTHERWISE.	
44	DCA	ARTICLE 7.1(c):  A NEW SUB-CLAUSE 7.1(c)(iii) SHOULD BE ADDED WHERE UNDER THE AUTHORITY SHOULD UNDERTAKE TO PERFORM/COMPLY WITH ITS OBLIGATIONS UNDER THE APPLICABLE LAWS INCLUDING THE MAJOR PORT TRUSTS ACT, 1963, TO THE EXTENT THE AUTHORITY IS IN BREACH/NON-COMPLIANCE WITH SUCH OBLIGATIONS, IT SHOULD DEFEND, INDEMNIFY AND HOLD THE CONCESSIONAIRE HARMLESS AGAINST ANY LOSSES, DAMAGES OR LIABILITIES INCURRED BY THE CONCESSIONAIRE DUE TO SUCH BREACH/ NON-COMPLIANCE.	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
45	DCA	ARTICLE 9.1 (B) DEALS WITH THE PAYMENT OF LEASE RENT (ON UPFRONT PREMIUM BASIS) FOR THE PROJECT AREA AT THE RATE OF RS. 621 PER 100 SQ. M. PER MONTH (INCLUDING ADDITIONAL RENT FOR THE PLOT ABUTTING THE SECOND ROAD). IN ADDITION TO LEASE RENT, THE SAID ARTICLE ALSO SEEKS TO LEVY A NOTIONAL RENT OF RS. 1 FOR THE WHOLE PROJECT AREA.  THE RATIONALE FOR LEVYING NOTIONAL RENT FOR THE PROJECT AREA IS NOT CLEAR, PARTICULARLY WHEN ACTUAL RENT IS ALSO LEVIED FOR THE SAME AREA. A CLARIFICATION TO THIS EFFECT IS BE SOUGHT FROM THE AUTHORITY.	PLEASE REFER TO THE REPLY GIVEN AGAINST Q2 ABOVE
46	DCA	ARTICLE 9.4 ENTITLES THE AUTHORITY TO HAVE CONDUCTED A SPECIAL AUDIT OF THE GROSS REVENUE AND THE FINANCIAL RECORDS OF THE CONCESSIONAIRE THROUGH AN ADDITIONAL AUDITOR. THE ARTICLE ALSO PROVIDES THAT IF THE GROSS REVENUE AS REPORTED BY THE ADDITIONAL AUDITOR IS MORE THAN THAT REPORTED BY THE STATUTORY AUDITOR, BOTH THE AUDITORS SHALL MEET TO RESOLVE THE DIFFERENCE, FAILING WHICH	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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		THE CONCESSIONAIRE SHALL PAY THE ROYALTY BASED ON THE GROSS REVENUE REPORTED BY THE ADDITIONAL AUDITOR. THIS PROVISION IS ONEROUS ON THE CONCESSIONAIRE AND IT IS THEREFORE SUGGESTED THAT IN CASE OF FAILURE OF THE AUDITORS TO RESOLVE SUCH DIFFERENCE, SUCH DIFFERENCE SHOULD BE RESOLVED BY THE PARTIES IN ACCORDANCE WITH THE DISPUTE SETTLEMENT MECHANISM PROVIDED UNDER ARTICLE 19.  ON A RELATED NOTE, THE AUTHORITY SHOULD BEAR ALL THE COST INCURRED FOR CONDUCTING SPECIAL AUDIT.	
47	DCA	ARTICLE 11.2 PROVIDES FOR LOCK-IN AND SHARE TRANSFER RESTRICTIONS. AS PER THE SAID ARTICLE, THE APPLICANT HAS TO LEGALLY AND BENEFICIALLY HOLD NOT LESS THAN 51% OF THE PAID UP EQUITY CAPITAL OF THE CONCESSIONAIRE UNTIL 3 YEARS AFTER THE DATE OF COMMERCIAL OPERATIONS AND NOT LESS THAN 26% OF ITS PAID UP CAPITAL DURING THE BALANCE CONCESSION PERIOD. THE CLARIFICATION SHOULD BE PROVIDED BY THE AUTHORITY ON HOW THESE LOCK IN PROVISIONS WOULD OPERATE IN THE EVENT THE DATE OF COMMERCIAL OPERATIONS ARE DIFFERENT FOR EACH MILESTONE OF THE PROJECT.	<b>REPLY CONNECTED TO ANSWER GIVEN FOR Q24</b>
48	DCA	ARTICLE 12.1 (D) PROVIDES FOR INDEMNIFICATION FROM THE CONCESSIONAIRE. IT IS SUGGESTED THAT THE SAID ARTICLE SHOULD ALSO HAVE A RECIPROCAL INDEMNITY FROM THE AUTHORITY, INDEMNIFYING THE CONCESSIONAIRE FROM ALL LOSS, DAMAGES, PENALTIES, LIABILITIES, ETC. INCURRED BY THE CONCESSIONAIRE AS A RESULT OF ANY (A) BREACH OF ARTICLE 2.8 (I.E. PEACEFUL OCCUPATION); (B) BREACH/ NON-COMPLIANCE OF APPLICABLE PERMITS AND APPLICABLE LAWS BY THE AUTHORITY, INCLUDING BUT NOT LIMITED TO THE BREACH OF PROVISIONS OF THE MPT ACT	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
49	DCA	ARTICLE 12.3 (B) (III) SETS OUT CONFIDENTIALITY OBLIGATIONS ON THE PARTIES. HOWEVER, SUCH OBLIGATIONS SHOULD NOT BE APPLICABLE TO INFORMATION WHICH WAS (A) AVAILABLE IN PUBLIC DOMAIN PRIOR TO THE DISCLOSURE BY A PARTY TO ANOTHER; OR (B) ALREADY IN THE KNOWLEDGE OF THE RECEIVING PARTY; OR (C) OBTAINED FROM A THIRD PARTY WHO HAD NO BINDER OF SECRECY IN RELATION TO SUCH INFORMATION; OR (D)	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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		<p>INDEPENDENTLY DEVELOPED BY A PARTY.</p> <p>THE SAID ARTICLE ENTITLES A PARTY TO DISCLOSE SUCH CONFIDENTIAL INFORMATION TO ITS LEGAL ADVISORS OR AUDITORS ON A NEED TO KNOW BASIS. THIS DISCLOSURE SHOULD BE ALLOWED SUBJECT TO SUCH PERSONS AGREEING TO BE BOUND BY THE SAME CONFIDENTIALITY OBLIGATIONS APPLICABLE TO THE PARTIES UNDER THE CONCESSION AGREEMENT.</p>	
50	DCA	<p>ARTICLE 13.1 DEFINES CHANGE IN LAW IN THE CONTEXT OF ADOPTION, REINTERPRETATION, MODIFICATION OR REPEAL OF ANY STATUTE, RULE, ORDINANCE, ORDER, TREATY, DIRECTIVE, POLICY, ETC. BY A GOVERNMENT AUTHORITY. IT ALSO INCLUDES IMPOSITION OF ANY MATERIAL CONDITION BY A GOVERNMENT AUTHORITY IN CONNECTION WITH THE ISSUANCE, RENEWAL OR MODIFICATION OF ANY APPLICABLE PERMITS.</p> <p>THE TERM GOVERNMENT AUTHORITY DOES NOT INCLUDE THE COURTS AND THEREFORE, ANY JUDGMENTS OR ORDERS WHICH RE-INTERPRET THE APPLICABLE LAW OR DEALS WITH THE CONSTITUTIONALITY OR OTHERWISE OF PROVISIONS OF ANY APPLICABLE LAW DOES NOT AMOUNT TO A CHANGE IN LAW FOR THE PURPOSES OF THE DCA.</p> <p>IT IS THEREFORE SUGGESTED THAT SUCH JUDGMENTS/ORDERS OF COURTS WHICH HAVE MATERIAL ADVERSE EFFECT SHOULD ALSO BE CONSTRUED TO BE CHANGE IN LAW AND THE PROVISIONS OF ARTICLE 13.2 (CONCESSIONAIRE'S REMEDY) SHOULD BE MADE APPLICABLE TO SUCH CHANGE IN LAW.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
51	DCA	<p>ARTICLE 13.2 DEALS WITH THE REMEDIES AVAILABLE TO THE CONCESSIONAIRE IN CASE OF CHANGE IN LAW. AS ONE OF THE REMEDIES FOR A CHANGE IN LAW WHICH HAS AN ADVERSE IMPLICATION ON THE CONCESSIONAIRE (IN THE FORM OF INCURRING OF ADDITIONAL COST), THE AUTHORITY CAN ELECT TO BEAR SUCH ADDITIONAL COST OVER AND ABOVE A DE MINIMIS LIMIT OF RS. 123 CRORES.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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<b>Sl No.</b>	<b>DOCUMENT</b>	<b>QUERY</b>	<b>RESPONSE</b>
		<p>HOWEVER, ON THE CONTRARY IF THE CONCESSIONAIRE BENEFITS FROM A CHANGE IN LAW (IN THE FORM OF REDUCTION IN COSTS OR ANY OTHER FINANCIAL BENEFIT OR GAIN) WHEREIN THE FINANCIAL BENEFIT EXCEEDS RS. 123 CRORES, IT SEEMS THAT THE DE MINIMIS LIMIT IS NOT APPLICABLE AND THE CONCESSIONAIRE IS REQUIRED TO COMPENSATE THE AUTHORITY FOR AN AMOUNT THAT WOULD PUT THE CONCESSIONAIRE IN THE SAME FINANCIAL POSITION HAD THERE BEEN NO SUCH CHANGE IN LAW AND FINANCIAL BENEFIT.</p> <p>THE AFORESAID TREATMENT IS ONEROUS ON THE CONCESSIONAIRE AND IT IS THEREFORE SUGGESTED THAT, IN CASE THE ADVERSE IMPACT OF CHANGE IN LAW EXCEEDS THE DE MINIMIS THRESHOLD (I.E. RS. 123 CRORES), THE AUTHORITY SHOULD PAY THE ENTIRE ADDITIONAL COST SO THAT THE CONCESSIONAIRE IS PUT IN THE SAME FINANCIAL POSITION HAD THERE BEEN NO SUCH CHANGE IN LAW;</p>	
52	DCA	<p>ARTICLE 14 DEALS WITH FORCE MAJEURE.</p> <p>ARTICLE 14.3 OF THE DCA SETS OUT THE POLITICAL FORCE MAJEURE EVENTS, ONE OF WHICH IS EARLY DETERMINATION OF THE CONCESSION AGREEMENT BY THE AUTHORITY FOR REASONS OF NATIONAL EMERGENCY, NATIONAL SECURITY OR PUBLIC INTEREST. IN THE EVENT THE CONCESSION AGREEMENT IS TERMINATED BY THE AUTHORITY ON THE AFORESAID GROUNDS, THE PROVISIONS OF ARTICLES 16 (TERMINATION OF THE CONCESSION) AND 17 (COMPENSATION) SHALL AUTOMATICALLY BECOME APPLICABLE AND SUCH DETERMINATION SHALL NO LONGER BE A FORCE MAJEURE EVENT. THEREFORE, ARTICLE 14.3(c) MAY BE DELETED.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
53	DCA	<p>AS PER ARTICLE 14.10, IF A FORCE MAJEURE IS LIKELY TO CONTINUE BEYOND 120 DAYS, THE PARTIES MAY MUTUALLY DECIDE TO TERMINATE THE AGREEMENT OR CHOSE TO CONTINUE WITH THE AGREEMENT ON SUCH REVISED TERMS AS MAY BE MUTUALLY AGREED. THE TIME PERIOD OF 120 DAYS IS TOO SHORT AND SHOULD BE INCREASED TO ATLEAST 180 DAYS.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
54	DCA	<p>ARTICLE 15.1 (B) LISTS OUT THE EVENTS OF DEFAULT ATTRIBUTABLE TO THE AUTHORITY. IT IS SUGGESTED THAT IN ADDITION TO THE EVENTS OF DEFAULT SET OUT IN THE SAID ARTICLE,</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

<b><i>Sl No.</i></b>	<b><i>DOCUMENT</i></b>	<b><i>QUERY</i></b>	<b><i>RESPONSE</i></b>
		ANY FAILURE, BREACH OR NON-COMPLIANCE OF THE AUTHORITY WITH THE PROVISIONS OF APPLICABLE LAWS AND/OR APPLICABLE PERMITS SHOULD ALSO BE INCLUDED AS ONE OF AUTHORITY'S EVENTS OF DEFAULT.	OF INDIA
55	DCA	<p>AS PER ARTICLE 15.3 OF THE DCA, IN CASE OF OCCURRENCE OF AN EVENT OF DEFAULT, THE NON-DEFAULTING PARTY IS REQUIRED TO ISSUE A NOTICE TO THE OTHER PARTY PROPOSING CONSULTATION AMONGST THE PARTIES AND THE LENDERS FOR EXPLORING POSSIBLE MEASURES OF CURING SUCH DEFAULT. AS PER ARTICLE 15.4, THE CONSULTATION PROCESS IS REQUIRED TO BE CARRIED ON FOR A PERIOD NOT EXCEEDING 90 DAYS. HOWEVER, IN CASE OF CONCESSIONAIRE EVENT OF DEFAULT, THE AUTHORITY SHALL IN CONSULTATION WITH THE LENDERS ENDEAVOUR TO ARRIVE AT AN AGREEMENT ON APPROPRIATE MEASURES TO CURE THE DEFECT, WHICH INCLUDE AMONG OTHERS CHANGE IN MANAGEMENT OR CONTROL/OWNERSHIP OF THE CONCESSIONAIRE OR REPLACEMENT OF THE CONCESSIONAIRE BY A NEW OPERATOR.</p> <p>ARTICLE 15.4 DOES NOT ALLOW ANY CURE PERIOD TO THE CONCESSIONAIRE FOR REMEDYING THE DEFAULT AND DIRECTLY PROVIDES FOR A CONSULTATION PROCESS AMONG THE PARTIES AND THE LENDERS WHICH MAY EVEN LEAD TO CHANGE IN MANAGEMENT/CONTROL/OWNERSHIP/SUBSTITUTION OF THE CONCESSIONAIRE.</p> <p>IT IS THEREFORE SUGGESTED THAT PRIOR TO THE INITIATION OF THE REMEDIAL PERIOD AND CONSULTATION WITH THE LENDERS PURSUANT TO THE PROVISIONS OF ARTICLE 15.4, THE CONCESSIONAIRE SHOULD BE ALLOWED A PERIOD OF [AT LEAST 60 DAYS] TO CURE THE DEFAULT. THE REMEDIAL PERIOD SHOULD COMMENCE ONLY IF THE CONCESSIONAIRE FAILS TO REMEDY THE DEFAULT WITHIN SUCH AGREED CURE PERIOD.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
56	DCA	ARTICLE 17.1 (B) PROVIDES FOR THE COMPENSATION WHICH IS PAYABLE TO THE CONCESSIONAIRE PURSUANT TO THE TERMINATION OF THE CONCESSION AGREEMENT OCCURRING AFTER THE DATE OF COMMERCIAL OPERATION DUE TO A CONCESSIONAIRE EVENT OF DEFAULT.	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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<b>Sl No.</b>	<b>DOCUMENT</b>	<b>QUERY</b>	<b>RESPONSE</b>
		IT IS SUGGESTED THAT THE SAID COMPENSATION SHOULD BE PAYABLE FOR SUCH TERMINATION OCCURRING FROM THE DATE OF FINANCIAL CLOSE INSTEAD OF THE DATE OF COMMERCIAL OPERATION. THIS IS CONSISTENT WITH THE PROVISIONS OF ARTICLE 16.3 WHICH PROVIDES THAT NO COMPENSATION SHALL BE PAID BY THE AUTHORITY IF THE TERMINATION NOTICE IS ISSUED PRIOR TO THE DATE OF FINANCIAL CLOSE (AS THE CONCESSION IS YET TO COME INTO EFFECT).	
57	DCA	<p>ARTICLE 18.2 (D):</p> <p>ARTICLE 18.2 (D) PROVIDES THAT ON THE TRANSFER DATE, THE CONCESSIONAIRE SHALL TRANSFER ALL THE TECHNOLOGY AND KNOW HOW RELATING TO THE OPERATION AND MAINTENANCE OF THE PORT'S ASSETS AND/OR PROJECT FACILITIES AND SERVICES. IN THIS CONTEXT, IT IS SUGGESTED THAT ANY INTELLECTUAL PROPERTY RIGHT CREATED AND SUBSISTING IN THE TECHNOLOGY, KNOWHOW AND DOCUMENTS PREPARED BY THE CONCESSIONAIRE IN RELATION TO THE PROJECT SHOULD BE JOINTLY OWNED BY THE CONCESSIONAIRE AND THE AUTHORITY AND EACH OF THE PARTIES SHOULD HAVE THE RIGHT OF UNRESTRICTED USE OF SUCH INTELLECTUAL PROPERTY. THE CONCESSIONAIRE SHOULD TRANSFER PHYSICAL COPIES OF THE DOCUMENTS CONTAINING THE DETAILS OF SUCH TECHNOLOGY AND KNOW HOW TO THE AUTHORITY ON THE TRANSFER DATE.</p> <p>ARTICLE 18.2 (E):</p> <p>ARTICLE 18.2 (E) PROVIDES FOR TRANSFER/ ASSIGNMENT OF THE PROJECT CONTRACTS BY CONCESSIONAIRE (AT ITS COST) IN FAVOUR OF THE AUTHORITY ON THE TRANSFER DATE. IT IS SUGGESTED THAT IN THE EVENT THE CONCESSION AGREEMENT IS TERMINATED BY THE CONCESSIONAIRE DUE TO AN AUTHORITY EVENT OF DEFAULT, THE COST AND LIABILITY, IF ANY, ASSOCIATED WITH SUCH TRANSFER/ASSIGNMENT SHOULD BE BORNE IN ENTIRETY BY THE AUTHORITY.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
58	DCA	ARTICLE 20.1 (A) REQUIRES THE CONCESSIONAIRE TO IRREVOCABLY WAIVE ANY IMMUNITY IN ANY JURISDICTION IN RESPECT OF THE CONCESSION AGREEMENT, INCLUDING ANY	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT

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<b><i>Sl No.</i></b>	<b><i>DOCUMENT</i></b>	<b><i>QUERY</i></b>	<b><i>RESPONSE</i></b>
		OBLIGATION, LIABILITY OR RESPONSIBILITY THEREUNDER. IT IS SUGGESTED THAT SIMILAR WAIVER SHOULD ALSO BE OBTAINED FROM AUTHORITY.	OF INDIA
59	DCA	<p>THE CONCESSION AGREEMENT PROVIDES FOR APPOINTMENT OF EXPERTS FOR VARIOUS PURPOSES, WHICH INCLUDE AMONG OTHERS, DETERMINATION OF TANGIBLE ASSETS WHICH SHOULD BE TAKEN OVER BY THE AUTHORITY (BASED ON THE CAPABILITY OF SUCH ASSETS FOR USE BY THE AUTHORITY), DETERMINATION OF CHANGE OF SCOPE AND/OR COST OF IMPLEMENTING THE SAME AND INSPECTION OF THE PROJECT FACILITIES AND SERVICES TO VERIFY IF THEY ARE PERFORMED IN ACCORDANCE WITH THE PERFORMANCE STANDARDS. IT IS SUGGESTED THAT IN ALL SUCH CASES THE EXPERT SHOULD BE APPOINTED BY THE PARTIES BY MUTUAL CONSENT.</p> <p>FURTHER, UNDER THE PROVISIONS OF ARTICLE 19.2 (ASSISTANCE OF EXPERT), IN CASE OF ANY DISPUTE WHICH IS NOT RESOLVED AMICABLY BETWEEN THE PARTIES, THE PARTIES MAY AGREE TO REFER SUCH MATTER TO AN EXPERT. IT SHOULD BE CLARIFIED IN THIS ARTICLE THAT THE EXPERT SHALL BE APPOINTED ONLY FOR THE PURPOSES OF MAKING SUGGESTIONS FOR AMICABLE SETTLEMENT BETWEEN THE PARTIES AND ITS VIEWS SHALL NOT BE BINDING ON THE PARTIES.</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA
60	DCA	<p>DEFINITION OF FINANCIAL DEFAULT UNDER THE DRAFT SUBSTITUTION AGREEMENT:</p> <p>A FINANCIAL DEFAULT (WHICH LEADS TO THE SUBSTITUTION OF THE CONCESSIONAIRE UNDER THE SAID AGREEMENT) UNDER THE SUBSTITUTION AGREEMENT IS TRIGGERED UPON THE OCCURRENCE OF MATERIAL BREACH OF THE TERMS AND CONDITIONS OF THE FINANCING DOCUMENTS BY THE CONCESSIONAIRE. IT SHOULD BE NOTED THAT THE DEFINITION OF FINANCIAL DEFAULT DOES NOT ACCOUNT FOR ANY CURE PERIOD THAT THE CONCESSIONAIRE MAY BE ENTITLED TO UNDER THE FINANCING DOCUMENTS FOR REMEDYING SUCH DEFAULT. IT IS THEREFORE SUGGESTED THAT THE SAID DEFINITION SHOULD BE AMENDED SUCH THAT A FINANCIAL DEFAULT UNDER THE SUBSTITUTION AGREEMENT OCCURS ONLY IF THE LENDERS FINALLY DETERMINE THAT THE DEFAULT IS SUCH</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVERNMENT OF INDIA

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<b>Sl No.</b>	<b>DOCUMENT</b>	<b>QUERY</b>	<b>RESPONSE</b>
		THAT REQUIRES THE SUBSTITUTION OF THE CONCESSIONAIRE.	
61	REQUEST FOR PROPOSAL CLAUSE 1.1.1 – ESTIMATED PROJECT COST	PLEASE PROVIDE A DETAILED BREAK-UP OF THE ESTIMATED PROJECT OF INR 1758.5 CRORES. ESTIMATED PROJECT COST AS PER RFP DOCUMENT IS SUBSTANTIALLY HIGHER THAT THE PROJECT COST OF INR 1267 CRORES ESTIMATED IN THE FEASIBILITY REPORT.	IT IS NOT AN OBLIGATION OF THE AUTHORITY TO PROVIDE SUCH BREAKUP. THE BIDDER IS EXPECTED TO DO THEIR OWN DUE DILIGENCE.
62	REQUEST FOR PROPOSAL CLAUSE 1.2.4 READ WITH CLAUSE 2.1.7 – BID SECURITY:	WE DRAW REFERENCE TO THE MODEL RFP DOCUMENT OF THE GOVT. OF INDIA WHICH RECOMMENDS A BID SECURITY OF 1% OF THE ESTIMATED PROJECT COST WITH AN OPTION TO THE AUTHORITY TO INCREASE IT TO 2%, IF DEEMED NECESSARY. WE REQUEST KOPT TO CONSIDER A BID SECURITY OF 1% OF THE ESTIMATED PROJECT COST OR INR 17.59 CRORES.	PLEASE REFER TO REPLY GIVEN FOR Q1
63	REQUEST FOR PROPOSAL CLAUSE 1.2.6 READ TOGETHER WITH CLAUSE 1.3:	FOR A PROJECT OF THIS MAGNITUDE BIDDERS WILL REQUIRE TO STUDY THIS PROJECT IN GREAT DETAIL AND ALSO CARRY OUT NECESSARY STUDIES AND FOR WHICH A TIME FRAME OF ABOUT 90 DAYS IS TO BE EXPECTED. FURTHER, CLARITY OBTAINED AFTER DETAILED DISCUSSIONS AT THE PRE-BID MEETING/S AND FROM THE RESPONSES ISSUED BY KOPT TO BIDDER'S QUERIES ARE ALSO NEEDED IN THE PROCESS OF CARRYING OUT THESE STUDIES. HENCE, KOPT IS REQUESTED FIX THE BID DUE DATE AS 60 DAYS FROM THE DATE OF ISSUE OF WRITTEN RESPONSES TO BIDDER'S QUERIES FOLLOWING THE LAST PRE-BID MEETING BY KOPT.	BID DUE DATE WILL BE 17 <sup>TH</sup> FEBRUARY, 2014 PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

64	REQUEST FOR PROPOSAL CLAUSE 2.1.15:	KOPT MAY PLEASE ADVISE THE NAMES OF THE LEGAL, FINANCIAL AND TECHNICAL ADVISORS ENGAGED IN RELATION TO THIS PROJECT. FROM THE READING OF THIS CLAUSE IT SEEMS THAT THE BIDDER/CONCESSIONAIRE CANNOT APPOINT THE LEGAL, FINANCIAL AND TECHNICAL ADVISORS TO KOPT EITHER PRIOR TO THE AWARD OF THE CONCESSION AND ALSO FOR THE ENTIRE TERM OF THE CONCESSION. KINDLY CLARIFY THE CORRECT INTENTION OF KOPT IN RESPECT OF THIS CLAUSE.	<ul style="list-style-type: none"> <li>LEGAL CONSULTANT: MULLA &amp; MULLA &amp; CRAIGIE BLUNT &amp; CAROE</li> <li>FINANCIAL CONSULTANT &amp; TRANSACTION ADVISER: ERNST &amp; YOUNG LLP</li> <li>TECHNICAL CONSULTANT: CONSULTING ENGINEERING SERVICES (I) PVT. LTD.</li> </ul> <p>THE CLAUSE IS AS PER MODEL CONCESSION AGREEMENT (MCA) OF GOVT. OF INDIA</p>
65	REQUEST FOR PROPOSAL CLAUSE 2.2.1:	THE PROVISIONS OF THIS CLAUSE PERMIT A CHANGE IN THE COMPOSITION OF A CONSORTIUM SUBJECT TO APPROVAL FROM KOPT. CONFIRMATION IS REQUESTED FROM KOPT THAT THE SINGLE APPLICANT (WHO HAS BEEN SHORTLISTED AT THE RFQ STAGE) IS DURING THE FINANCIAL BID STAGE ALSO PERMITTED TO CREATE A 'CONSORTIUM' BY BRINGING IN A SUITABLE PARTNER/S.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
66	REQUEST FOR PROPOSAL CLAUSE 2.12:	IT IS ENVISAGED THAT THE BIDS SHOULD BE SUBMITTED BEFORE 1100 IST ON THE BID DUE DATE. WE REQUEST TO CHANGE THE TIME TO 1500 IST FROM 1100 IST TO ENSURE THAT THE BIDDERS CAN DE-RISK THE TRAFFIC CONDITIONS FROM KOLKATA AIRPORT TO KOPT'S OFFICE AND ANY UNFORESEEN FLIGHT CANCELLATIONS/ DELAYS	REQUEST ACCEDED TO. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014
67	REQUEST FOR PROPOSAL CLAUSE 2.20.4:	THE 3RD LINE OF THE PARAGRAPH SAYS THE BID SECURITY WILL BE REFUNDED 'AS PROMPTLY AS POSSIBLE' – THIS IS IN CONFLICT WITH THE PROVISIONS OF CLAUSES 2.1.8 AND 1.2.4. PLEASE CONFIRM THAT THE BID SECURITY WILL BE REFUNDED AS PER CLAUSES 2.1.8 AND 1.2.4.	ALL THE CLAUSES ARE AS PER MCA OF GOVT. OF INDIA
68	REQUEST FOR	WE REQUEST TO CHANGE THE BID OPENING TIME TO 1530 IST. REFER OUR QUERY NUMBER .....ABOVE.	REQUEST ACCEDED TO. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT

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	<b>PROPOSAL CLAUSE 3.1.1:</b>		05.02.2014
<b>69</b>	<b>REQUEST FOR PROPOSAL APPENDIX I - PARAGRAP H 16:</b>	<b>PLEASE CONFIRM THAT IF THE BIDDER IS A SINGLE ENTITY AND NOT A CONSORTIUM THIS PARAGRAPH 16 IS TO BE DELETED. ALTERNATIVELY, CAN "OUR CONSORTIUM WAS" BE KOPT ACED WITH "WE WERE". THE WORDS "CHANGE IN OWNERSHIP" ARE CAPITALIZED – HOWEVER PHRASE IS NOT DEFINED IN THE RFP OR DRAFT CONCESSION AGREEMENT. PLEASE ADVISE WHAT IS THE MEANING AND RELEVANCE OF THESE WORDS.</b>	<b>PLEASE REFER TO THE FOOTNOTE OF ANNEXURE – I</b>
<b>70</b>	<b>REQUEST FOR PROPOSAL APPENDIX I - PARAGRAP H 17</b>	<b>IT APPEARS THAT THE REASON WHY THIS PARAGRAPH WAS ORIGINALLY INSERTED IN THE MODEL RFP DOCUMENT OF THE GOVT. OF INDIA WAS AT THAT POINT OF TIME THE SHORTLISTING OF PRE-QUALIFIED BIDDERS WAS LIMITED TO THE TOP 5 (OR 6 AS THE CASE MAYBE) BIDDERS RANKED ON THE BASIS OF THEIR TECHNICAL SCORE AT THE RFQ STAGE. IN ARRIVING AT SCORE THE BIDDERS ARE PERMITTED TO USE TECHNICAL AND FINANCIAL CAPACITIES OF THEIR ASSOCIATES – HENCE ANY CHANGE IN CONTROL OF ANY ASSOCIATE WHO WAS USED, LEADING TO A REDUCTION IN THE TECHNICAL AND/OR FINANCIAL CAPACITY COULD HAVE ADVERSELY AFFECTED THE BIDDER'S QUALIFICATION. SINCE THIS CAP ON SHORTLISTED BIDDERS AT THE RFQ STAGE HAS NOW BEEN REMOVED BY THE MIN. OF SHIPPING THE RESTRICTION REGARDING CHANGE IN CONTROL OF ASSOCIATES IS NO LONGER RELEVANT. HENCE, THIS PARAGRAPH 17 SHOULD BE DELETED.</b>	<b>PLEASE REFER TO THE FOOTNOTE OF ANNEXURE – I</b>
<b>71</b>	<b>DRAFT CONCESSIO N AGREEMEN T ARTICLE 1.1 DEFINITION S:</b>	<b>'DEBT DUE' – THE DEFINITION OF DEBT DUE EXCLUDES (i) WORKING CAPITAL LOANS; (ii) ANY PART OF THE PRINCIPAL THAT HAS FALLEN DUE FOR REPAYMENT ONE YEAR PRIOR TO THE DATE OF TRANSFER IF THE TRANSFER DATE IS RELATED TO THE EXPIRY OF THE CONCESSION PERIOD OR ANY PART OF THE PRINCIPAL THAT HAD FALLEN DUE AFTER THE TERMINATION NOTICE, IF THE TRANSFER DATE IS RELATED TO TERMINATION PRIOR TO THE EXPIRY OF THE CONCESSION PERIOD;</b>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>

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		(iii) ANY DEBT THAT HAS BEEN RESCHEDULED OR REFINANCED, UNLESS SUCH REPAYMENT HAD BEEN RESCHEDULED OR REFINANCING MADE WITH THE PRIOR CONSENT OF CONCESSIONING AUTHORITY. ALL EXCLUSIONS AS MENTIONED ABOVE FORM PART OF DEBT DUE UNDER ITS NORMAL PARLANCE AND UNDERSTANDING. THEREFORE WE REQUEST THAT THESE EXCLUSIONS BE DELETED.	
72	DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITIONS	"MANAGEMENT CONTRACT" – PLEASE ADVISE WHETHER THIS MANAGEMENT CONTRACT IS REQUIRED IN THE EVENT THE APPLICANT MEETS THE TECHNICAL CRITERIA ON ITS OWN CREDENTIALS NULLIFYING THE REQUIREMENT OF MANAGEMENT CONTRACTOR.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
73	DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITIONS	"O&M CONTRACT" - PLEASE ADVISE WHETHER THIS O&M CONTRACT IS REQUIRED IN THE EVENT THE APPLICANT MEETS THE TECHNICAL CRITERIA ON ITS OWN CREDENTIALS NULLIFYING THE REQUIREMENT OF MANAGEMENT CONTRACTOR AND THEREFORE THE O&M CONTRACT	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
74	DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITION	<ol style="list-style-type: none"> <li>1. A DETAILED LAYOUT OF THE PROJECT SITE WITH CO-ORDINATES AND CLEARLY DEMARCATED BOUNDARIES TO BE PROVIDED TO THE BIDDERS.</li> <li>2. HOW FAR IS THE FISH HARBOUR JETTY FROM THE LOCATION OF SOUTHERN END OF THE PROPOSED WHARF?</li> <li>3. PLEASE ADVISE WHETHER THE PROJECT SITE IS FREE OF ALL ENCUMBRANCES</li> <li>4. PLEASE ADVISE WHETHER THE CONCESSIONAIRE WILL HAVE UNFETTERED ACCESS TO THE PROJECT SITE</li> </ol>	<ol style="list-style-type: none"> <li>1. PLEASE REFER TO APPENDIX-1</li> <li>2. WITHIN THE PROJECT AREA</li> <li>3. PLEASE REFER TO REPLY GIVEN ON RFQ QUERIES, QUERY No.23, AVAILABLE AT KOPT WEBSITE.</li> <li>4. YES</li> </ol>

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	S	<b>5. WHAT ARE THE DIMENSIONS OF WATERFRONT PROVIDED TO THE CONCESSIONAIRE?</b>	<b>5. PLEASE REFER TO THE RELEVANT PORTION OF THE FEASIBILITY REPORT</b>
<b>75</b>	<b>DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITIONS</b>	<b>"SUPPORTING PROJECT INFRASTRUCTURE" – NAVIGATIONAL CHANNEL LEADING TO DIAMOND HARBOUR PROJECT SITE:</b> <ol style="list-style-type: none"> <li><b>1. WHAT IS MAXIMUM SIZE OF VESSELS THAT CAN CALL AT DIAMOND HARBOUR AT ALL STATES TIDE?</b></li> <li><b>2. PLEASE PROVIDE THE MINIMUM DRAFT AVAILABLE FROM SAGAR ANCHORAGE TO DIAMOND HARBOUR?</b></li> <li><b>3. PLEASE PROVIDE THE DETAILS ON QUANTUM OF DREDGING IN MILLION CUM CARRIED OUT BY KOPT IN THE LAST FIVE YEARS IN GENERAL AND FROM SAGAR ANCHORAGE TO DIAMOND HARBOUR IN PARTICULAR?</b></li> <li><b>4. WHAT IS SIZE OF TURNING CIRCLE ENVISAGED?</b></li> <li><b>5. PLEASE PROVIDE THE COORDINATE OF THE CENTER OF TURNING CIRCLE?</b></li> </ol>	<b>PLEASE REFER TO CHAPTER 6 &amp; 7 OF THE FEASIBILITY REPORT. DREDGING, IF REQUIRED, WILL BE DONE BY THE AUTHORITY AND HENCE THE QUERY DOES NOT APPEAR TO BE RELEVANT.</b>
<b>76</b>	<b>DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITIONS</b>	<b>"SUPPORTING PROJECT INFRASTRUCTURE" – TUGS AND MOORING BOATS:</b> <ol style="list-style-type: none"> <li><b>1. PLEASE CONFIRM WHO WILL PROVIDE PILOTS?</b></li> <li><b>2. WHO WILL PROVIDE THE TUG AND MOORING BOATS?</b></li> </ol>	<b>PILOTS, TUGS AND MOORING BOATS WILL BE PROVIDED BY THE AUTHORITY</b>
<b>77</b>	<b>DRAFT CONCESSION AGREEMENT ARTICLE 1.1</b>	<b>"SUPPORTING PROJECT INFRASTRUCTURE" – ACCESS TO THE PORT FOR INLAND TRANSPORT (INCLUDING ROADS, BRIDGES AND TUNNELS):</b> <ol style="list-style-type: none"> <li><b>1. PLEASE CLEARLY SPECIFY THE ROAD ACCESS.</b></li> <li><b>2. WHICH ROAD WILL BE THE ACCESS TO THE PROJECT SITE</b></li> <li><b>3. GENERAL: PLEASE CONFIRM THAT THE NECESSARY INFRASTRUCTURE AS STATED IN THE SAID DEFINITION WOULD BE PROVIDED BY THE CONCESSIONING</b></li> </ol>	<b>PLEASE REFER TO THE RELEVANT PORTION OF THE FEASIBILITY REPORT</b>

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	<b>DEFINITIONS</b>	<b>AUTHORITY AND IS SUFFICIENT TO HANDLE PROJECTED TRAFFIC OF 1.2 MILLION TEUs</b>	
<b>78</b>	<b>DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITIONS</b>	<b>"SUPPORTING PROJECT INFRASTRUCTURE": THERE IS NO MENTION OF RAIL CONNECTIVITY TO THE PROJECT SITE. PLEASE CONFIRM THAT THE CONCESSIONING AUTHORITY WILL PROVIDE RAIL ACCESS TO THE PROJECT SITE.</b>	<b>PLEASE REFER TO REPLY GIVEN AGAINST Q13 ABOVE</b>
<b>79</b>	<b>DRAFT CONCESSION AGREEMENT ARTICLE 1.1 DEFINITIONS</b>	<b>"SUPPORTING PROJECT INFRASTRUCTURE": PLEASE NOTE THAT SUFFICIENT SEA, ROAD AND RAIL ACCESS TO THE PORT IS EXTREMELY CRITICAL FOR THE DEVELOPMENT OF THE PROJECT AND SUCH CONNECTIVITY NEEDS TO BE PROVIDED BY THE CONCESSIONING AUTHORITY.</b>	<b>PLEASE REFER TO THE RELEVANT PORTION OF THE FEASIBILITY REPORT</b>
<b>80</b>	<b>DRAFT CONCESSION AGREEMENT ARTICLE 2.7 – ACCEPTANCE OF THE PORT ASSETS:</b>	<b>WE WOULD APPRECIATE IF THE CONCESSIONING AUTHORITY COULD SHARE INFORMATION REGARDING THE CLIMATIC, HYDROLOGICAL AND GENERAL PHYSICAL CONDITIONS OF THE PROJECT SITE / PORT'S ASSETS, THE NATURE OF THE GROUND AND SUBSOIL ETC.</b>	<b>PLEASE REFER TO REPLY GIVEN AGAINST Q15 &amp; Q20</b>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

<b>81</b>	<b>DRAFT CONCESSION AGREEMENT</b>	<b>ARTICLE 3.1(B) (I) READ WITH APPENDIX 8- ONE OF THE CONDITION PRECEDENTS TO BE ACHIEVED BY THE CONCESSIONING AUTHORITY IS ENVIRONMENTAL CLEARANCE. PLEASE ADVISE THE STATUS OF ENVIRONMENT CLEARANCE.</b>	<b>PLEASE REFER TO REPLY GIVEN FOR Q19</b>
<b>82</b>	<b>DRAFT CONCESSION AGREEMENT</b>	<b>ARTICLE 5.1 (A) INDEPENDENT ENGINEER: COULD YOU PLEASE ADVISE THE BASIS FOR THE EVALUATION OF THE CAPABILITY OF THE APPLICANTS FOR INDEPENDENT ENGINEER.</b>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>
<b>83</b>	<b>DRAFT CONCESSION AGREEMENT</b>	<b>ARTICLE 6.2 – IT DOES SEEM THAT THE SCOPE OF WORK INDICATED IN APPENDIX 7 AND IN APPENDIX 6 (REFERRED TO IN ARTICLE 5.1 (A) AND ARTICLE 6.2 (A) RESPECTIVELY) BRING THE CONTAINER HANDLING EQUIPMENTS UNDER THE SCOPE OF THE INDEPENDENT ENGINEER. THE EQUIPMENT MANUFACTURERS ARE NOT READY TO SHARE THE NECESSARY DESIGNS AND DRAWINGS OF THE EQUIPMENTS GIVEN THAT THEY ARE HIGHLY PROPRIETARY IN NATURE AND IT IS FOUND THAT ADEQUATE KNOWLEDGE ON THIS HEAVY DUTY IMPORTED EQUIPMENT IS NOT AVAILABLE LOCALLY. WHILE WE APPRECIATE THAT THE CONCESSIONING AUTHORITY MAY WISH TO KNOW THE KIND OF EQUIPMENT ETC BEING PURCHASED, WE REQUEST THAT THE EQUIPMENT BE REMOVED FROM THE SCOPE OF THE INDEPENDENT ENGINEER.</b>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>
<b>84</b>	<b>DRAFT CONCESSION AGREEMENT</b>	<b>ARTICLE 6.2.(C) – THE INDEPENDENT ENGINEER SHOULD REVERT WITH ITS COMMENTS ON THE REVISED DESIGNS AND DRAWINGS SUBMITTED TO IT WITHIN 7 DAYS OF THE RECEIPT OF REVISED DESIGNS AND DRAWINGS FROM THE CONCESSIONAIRE.</b>	<b>POSSIBLY 6.2(B) WAS MEANT BY THE BIDDER. THE TIME FRAME IS 21 DAYS AS PER MCA, WHICH HAS BEEN RETAINED.</b>
<b>85</b>	<b>DRAFT CONCESSION AGREEMENT</b>	<b>ARTICLE 6.4.(H) – PLEASE ADVISE US THE EXACT LOCATION OF CONTRACTORS WORKING AREA IN ORDER TO COMPLY WITH THIS ARTICLE.</b>	<b>THE QUESTION IS NOT VERY CLEAR AS THE CLAUSE DOES NOT REFER TO ANY CONTRACTORS WORKING AREA</b>

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

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86	DRAFT CONCESSION AGREEMENT	ARTICLE 6.5 (B) – THE CONCESSIONING AUTHORITY IS REQUESTED TO PROVIDE THE HYDROGRAPHIC SURVEY CHART FROM DIAMOND HARBOUR TO SANDHEADS INCLUDING RANGAFALLA CROSSING, BEDFORD CHANNEL, AUCKLAND BAR GASPER CHANNEL AND MIDDLETON CHANNEL FROM 1995 TO 2013	PLEASE REFER TO REPLY GIVEN FOR Q15
87	DRAFT CONCESSION AGREEMENT	ARTICLE 6.7 (A) – THE SAID ARTICLE STATES THAT UPON RECEIPT OF THE NOTICE FROM THE CONCESSIONAIRE THE INDEPENDENT ENGINEER WILL PROCEED TO INSPECT THE WORKS AND SPECIFY THE 'TESTS' THAT THE CONCESSIONAIRE IS EXPECTED TO CARRY OUT. ANY 'TESTS' THAT THE INDEPENDENT ENGINEER WOULD NEED SHOULD BE CARRIED OUT THROUGH THE CONSTRUCTION PHASE AND NOT WAIT FOR THE RECEIPT OF NOTICE TO BE SERVED BY THE CONCESSIONAIRE. IT IS QUITE POSSIBLE THAT THE ENGINEER MAY PRESCRIBE A 'TEST' AT THIS POINT WHICH CANNOT BE CARRIED OUT AT ALL (E.G. A STRUCTURE IS ALREADY COMPLETED) AND NON COMPLIANCE BY THE CONCESSIONAIRE WOULD THEN BE TERMED A DEFAULT. CAN THE 'TEST' PLEASE BE NOTIFIED IN ADVANCE ONCE THE INDEPENDENT ENGINEER IS APPOINTED?	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
88	DRAFT CONCESSION AGREEMENT	ARTICLE 6.7 (E) –THE REDUCTION IN THE SCOPE OF PROJECT WOULD DEFINITELY HAVE AN ADVERSE IMPACT ON THE PROJECT AND IF A SITUATION AS CONTEMPLATED BY THIS ARTICLE ARISES ON ACCOUNT OF FORCE MAJEURE OR FOR REASONS SOLELY ATTRIBUTABLE TO THE CONCESSIONING AUTHORITY THEN SUCH A SITUATION BE TREATED AN EVENT OF DEFAULT. ANY REDUCTION OF SCOPE LEADS TO REDUCTION IN CAPACITY, EARNINGS AND THEREFORE ANY PAYMENTS TO THE CONCESSIONING AUTHORITY DOES NOT ARISE. AS THE CURRENT ARTICLE IS WORDED IT GIVES AN UNFAIR AND UNDUE ADVANTAGE TO THE CONCESSIONING AUTHORITY AND HENCE SHOULD BE DELETED.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
89	DRAFT CONCESSION AGREEMENT	ARTICLE 6.8 CHANGE OF SCOPE - AT THE OUTSET WE BELIEVE THAT THIS ARTICLE RESULTS IN COMPLICATIONS IN COMPLETING THE PROJECT WITHIN THE SPECIFIED TIME PERIOD AND COULD LEAD TO UNNECESSARY DISPUTES ON WHERE SUCH AN IMPLEMENTATION RESULTS IN DELAY. HENCE, THIS ARTICLE SHOULD BE DELETED.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

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90	DRAFT CONCESSION AGREEMENT	ARTICLE 6.8 (G) - GIVES THE CONCESSIONING AUTHORITY AN OVERRIDING RIGHT TO DECIDE TO CARRY OUT THE WORKS AND ALSO INTRODUCE AN INDEPENDENT CONTRACTOR WHOSE WORK MAY BE DETRIMENTAL TO THE PROJECT COMPLETION AS WELL AS THE PROJECT FACILITIES AND SERVICES. THEREFORE IT IS OUR REQUEST THAT THIS ARTICLE BE COMPLETELY DELETED.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
91	DRAFT CONCESSION AGREEMENT	ARTICLE 6.8(H): THE CONCESSIONING AUTHORITY SHOULD CONSIDER BEARING THE COST OF SUCH A CHANGE OF SCOPE AS PER ARTICLE 6.8(F) OR IN THE ALTERNATIVE HAVING THE TARIFF ADJUSTED TO GIVE EFFECT TO THE CHANGE OF SCOPE UNDER ARTICLE 6.8(H). PLEASE CONFIRM.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
92	DRAFT CONCESSION AGREEMENT	<p><b>ARTICLE 6.9 – LIQUIDATED DAMAGES</b></p> <p>(i) WE WOULD REQUEST THE CONCESSIONING AUTHORITY THAT IF LIQUIDATED DAMAGES ARE PAID AS SPECIFIED IN THE FIRST PART OF ARTICLE 6.9 THEN THE CONCESSIONING AUTHORITY SHOULD NOT PROCEED WITH TERMINATION UNLESS IT IS CLEAR THAT THE CONCESSIONAIRE HAS ABANDONED THE PROJECT.</p> <p>(ii) WE WOULD ALSO REQUEST THE CONCESSIONING AUTHORITY TO INCREASE THE AGGREGATE DELAY PERIOD FROM 180 DAYS TO 240 DAYS.</p> <p>(iii) WE WOULD REQUEST THAT THE LIQUIDATED DAMAGES BE ONLY APPLIED IF THERE IS A DELAY IN THE OVERALL COMPLETION OF THE PROJECT AND THE PROJECT IS NOT COMPLETED BY SCHEDULED PROJECT COMPLETION DATE. DELAYS IN ACHIEVING THE MILESTONE DATES COULD ALWAYS BE MADE UP. IT IS THE CONCESSIONING AUTHORITY’S STATED POSITION THAT THE LIQUIDATED DAMAGES ARE A GENUINE PRE-ESTIMATE OF DAMAGES THE CONCESSIONING AUTHORITY IS LIKELY TO SUFFER, THUS IS UNCLEAR WHAT DAMAGES THE CONCESSION AUTHORITY WOULD SUFFER IF THE MILESTONE DATES ARE NOT MET.</p>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

93	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1.(A) (I) – PLEASE CONFIRM WHETHER STEVEDORING LICENSE HAS TO BE PROCURED BY THE CONCESSIONAIRE	REQUIREMENT OF STEVEDORING LICENSE IS NOT ENVISAGED
94	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1.(A) (I) – PARTIAL OPERATIONS AFTER COMPLETION OF MILESTONE (1) AS PER APPENDIX 5 SHOULD BE ONE OF THE OBLIGATIONS OF THE CONCESSIONAIRE. KOPT IS REQUESTED TO ISSUE AN AMENDMENT ACCORDINGLY.	REQUEST CANNOT BE ACCEDED TO
95	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1.(A) (I) (H) – PLEASE CONFIRM THAT KOPT BOARD CANNOT INTERFERE IN THE BERTHING OF VESSELS. PLEASE ISSUE AN AMENDMENT ACCORDINGLY WHICH IS IN LINE WITH MODEL CONCESSION AGREEMENT.	REQUEST CANNOT BE ACCEDED TO
96	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1.(A) (I) (H) - PLEASE ALSO PROVIDE A COPY OF THE GUIDELINES OF BERTHING NORMS AS PER KOPT'S BOARD. WILL PRIORITY WILL BE GIVEN TO CONTAINER VESSELS AT DIAMOND HARBOUR.	AVAILABLE ON KOPT WEBSITE <a href="http://WWW.KOLKATAPORTTRUST.GOV.IN">WWW.KOLKATAPORTTRUST.GOV.IN</a>
97	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1.(A) (VIII) – THE CONCESSIONAIRE BEING AN OPERATOR OF A CONTAINER TERMINAL CAN PROVIDE REPORTS ON CONTAINER TRAFFIC ONLY. HENCE, IT IS REQUESTED THAT THE WORD 'CARGO' BE REPLACED WITH 'CONTAINERS'. THE TERMINAL OPERATOR DOES NOT KNOW ABOUT THE CARGO WITHIN THE CONTAINERS. PLEASE ISSUE A SUITABLE AMENDMENT.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
98	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1 (A) (X) 1. PLEASE CONFIRM THAT KOPT WILL PROVIDE FOR ALL LAND SIDE AND WATER SIDE SECURITY WITHIN ITS PORT LIMITS. 2. PLEASE CONFIRM THAT THE CONCESSIONAIRE WILL NOT REQUIRED TO BEAR	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

	T	<p>ANY ADDITIONAL SECURITY COST IN PROVIDING ANY INFRASTRUCTURE AS REQUIRED BY THE ISPS CODE IN AREAS NOT ALLOTTED TO THE CONCESSIONAIRE AND THAT ALL SUCH COST WILL BE BORNE BY THE CONCESSIONING AUTHORITY.</p> <p>3. PLEASE CONFIRM THAT THE CONCESSIONAIRE IS NOT EXPECTED AND REQUIRED TO BEAR ANY EXPENSES ON AREAS WHICH ARE NOT WITHIN THE PROJECT SITE.</p> <p>4. PLEASE PROVIDE THE CURRENT SECURITY REGULATION/ PROCEDURE AT THE PORT. IT IS UNDERSTOOD THAT THE CONCESSIONAIRE WILL MAKE ARRANGEMENTS FOR SECURITY INSIDE THE TERMINAL PREMISES.</p>	
99	DRAFT CONCESSION AGREEMENT	<p>ARTICLE 7.1.(A) (xi) – EMPLOYMENT OF PERSONNEL</p> <p>1. PLEASE CONFIRM THAT THERE IS NO NEED FOR DOCK LABOUR BOARD OR ANY OTHER GANGS TO BE HIRED OR PAID</p> <p>2. PLEASE CONFIRM THAT NO EMPLOYEES OF THE CONCESSIONING AUTHORITY HAS TO BE ABSORBED BY THE CONCESSIONAIRE</p>	<p>DEPLOYMENT OF WORKERS FROM DOCK LABOUR BOARD IS NOT ENVISAGED. NO EMPLOYEE OF CONCESSIONING AUTHORITY WILL HAVE TO BE ABSORBED</p>
100	DRAFT CONCESSION AGREEMENT	<p>ARTICLE 7.1.(A) (xiv) – BAILING OF CARGO AT TERMINAL: IT IS UNDERSTOOD THAT THERE ARE NO CONTAINER FREIGHT STATIONS IN THE VICINITY AND THE CONCESSIONAIRE WILL HAVE TO GIVE DELIVERY TO SHIPPERS/ CONSIGNEES. THIS WOULD LEAD TO VERY HIGH STORAGE OCCUPANCY AND WILL HAVE AN IMPACT ON THE EFFICIENCY OF TERMINAL OPERATIONS. FURTHER, THE CONCESSIONAIRE MAY BE PENALIZED UNDER ARTICLE 7.3 READ WITH APPENDIX 15 FOR NO FAULT OF IT IN CASE THE SHIPPER/ CONSIGNEE DELAY IN REMOVING THEIR BOXES. IT IS THEREFORE SUGGESTED NOT TO CONSIDER SUCH TRANSACTION UNDER PERFORMANCE METRICS AND INSERT THE CLAUSE “THE CONCESSIONAIRE WILL BE EXEMPT FROM PERFORMANCE STANDARDS APPLICABLE TO IT WHICH IS BEYOND ITS REASONABLE CONTROL’</p>	<p>REQUEST CANNOT BE ACCEDED TO</p>
101	DRAFT CONCESSION AGREEMENT	<p>ARTICLE 7.1.(B) (i) – PREFERENTIAL AND PRIORITY BERTHING: THE CONCESSIONING AUTHORITY CANNOT INTERFERE WITH BERTHING ANYMORE AS BERTH HIRE IS NOW CONCESSIONAIRE’S INCOME. PLEASE NOTE THAT KOPT BOARD CANNOT INTERFERE IN THE BERTHING OF VESSELS. PLEASE ISSUE AN AMENDMENT ACCORDINGLY WHICH IS IN LINE</p>	<p>REQUEST CANNOT BE ACCEDED TO</p>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

	T	WITH MODEL CONCESSION AGREEMENT.	
102	DRAFT CONCESSION AGREEMENT	<p><b>ARTICLE 7.1 (c) (i) (A) –</b></p> <p>(i) WE WOULD REQUEST THE CONCESSIONING AUTHORITY TO CONFIRM THAT THE BERTHING, SAILING, PILOTAGE AND TOWAGE OF VESSELS WILL BE PROVIDED ON A 24 x 7 BASIS.</p> <p>(ii) CAN YOU PLEASE PROVIDE INFORMATION ON THE WEATHER AND ENTRY/BERTHING RESTRICTIONS THAT WILL APPLY TO CONTAINER SHIPS CALLING AT THE PORT?</p> <p>(iii) IT IS NECESSARY FOR THE CONCESSIONING AUTHORITY TO ALSO CONSIDER PERFORMANCE STANDARDS FOR ITSELF ON ALL SERVICES THAT IT PROVIDES OR UNDERTAKES TO PROVIDE TO THE CONCESSIONAIRE OR THE CONCESSIONAIRES CUSTOMERS. IN THIS REGARD THE CONCESSIONING AUTHORITY MAY PLEASE CONFIRM THE NUMBER OF PILOT BOATS AND PILOT <i>KOPT TO CLARIFY ON THIS ISSUE</i>.TUGS THAT WOULD ALWAYS BE AVAILABLE TO ENSURE THE MARINE SERVICES PROVIDED AND THE PERFORMANCE STANDARDS FOR THE SAME.</p>	<p>i. YES</p> <p>ii. NO WEATHER RESTRICTIONS IN NORMAL WEATHER CONDITION</p> <p>iii. THIS IS AS PER MCA OF GOVT. OF INDIA</p>
103	DRAFT CONCESSION AGREEMENT	<p><b>ARTICLE 7.1 (c) (i) (B) –</b> IT IS UNDERSTOOD THAT THE CONCESSIONING AUTHORITY WILL ENSURE THE MAINTENANCE OF ENTRANCE CHANNEL DRAFT AT 9 METERS AT ALL LEVELS OF TIDE. PLEASE CONFIRM.</p>	PLEASE REFER TO REPLIES TO Q6 & Q9
104	DRAFT CONCESSION AGREEMENT	<p><b>ARTICLE 7.1 (c) (i) (B) –</b> PLEASE DEFINE THE ENTRANCE CHANNEL. PLEASE PROVIDE A DETAILED MAP OF ENTRANCE CHANNEL THAT THE CONCESSIONING AUTHORITY WILL MAINTAIN AT 9 METERS DRAFT AT ALL LEVELS OF TIDE.</p>	SINCE PILOTAGE WILL REMAIN A RESPONSIBILITY WITH THE AUTHORITY, THIS QUERY IS NOT RELEVANT
105	DRAFT CONCESSION	<p><b>ARTICLE 7.1(c) (i) (E) –</b> THE CONCESSIONING AUTHORITY IS REQUESTED TO PROVIDE THE PERFORMANCE STANDARDS AND THE SPECIFICATIONS OF ALL GENERAL PORT INFRASTRUCTURES THAT WOULD BE NECESSARY TO ENSURE SMOOTH FUNCTIONING OF THE</p>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

	AGREEMENT	TERMINAL AT ITS PEAK PROJECT CAPACITY.	
106	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1 (c) (i) (f) – THE CONCESSIONING AUTHORITY SHOULD ADVISE COMPLETE DETAILS OF THE CAPABILITY OF THIS INFRASTRUCTURE TO MEET THE DEMAND REQUIREMENTS AT ALL TIMES FOR E.G. EXTERNAL TRUCK PARKING FACILITIES, THE TRAFFIC CAPACITY OF THE ACCESS ROADS TO THE PORT ETC,. IT IS IMPORTANT THAT JUST AS THE CONCESSIONING AUTHORITY SPECIFIES THE PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES AND PENALTIES FOR THE CONCESSIONAIRE THE SAME PRINCIPLE SHOULD BE APPLIED TOWARDS THE CONCESSIONING AUTHORITY IN CASE OF ITS FAILURE TO MEET ITS PERFORMANCE AND THE CONCESSIONAIRE BE SUITABLY COMPENSATED ON ACCOUNT OF SUCH FAILURE.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
107	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1 (c) (i) (i) – THE CLAUSE SAYS THAT TRANSSHIPMENT BARGES WILL BE PROVIDED PRIORITY BERTHING AT KDS AND HDC, PROVIDED A MINIMUM OF 100 TEUS IN AND OUT TO BE CARRIED BY THE BARGES. PLEASE NOTE THAT IN ABSENCE OF ROAD AND RAIL CONNECTIVITY THE EVACUATION OF CONTAINERS WILL NECESSARILY HAVE TO BE CARRIED OUT BY BARGES. THE CONCESSIONING AUTHORITY SHOULD PLACE NO RESTRICTION ON THE PARCEL SIZE OF BARGES AS NEITHER THE BARGES NOR THE FACILITY AT KDS/HDC IS UNDER THE CONTROL OF THE CONCESSIONAIRE. WE INSIST THAT THE CONCESSIONING AUTHORITY HAS A DEDICATED FACILITY FOR THE BARGES AT HDC AND KDS.	REQUEST CANNOT BE ACCEDDED TO
108	DRAFT CONCESSION AGREEMENT	ARTICLE 7.1 (c) (i) (h) – IT IS NECESSARY THAT THE CONCESSIONING AUTHORITY SPECIFY WHAT IT EXPECTS IN TERMS OF THE CONCESSIONAIRE HAVING TO BEAR COMMON COST SINCE THIS DOES NOT SEEM TO HAVE BEEN CONSIDERED AS PART OF THE PROJECT EVALUATION PROVIDED BY THE CONCESSIONING AUTHORITY.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
109	DRAFT CONCESSION AGREEMENT	ARTICLE 7.2 (A) – PLEASE PROVIDE THE EXACT LOCATION OF TAKE OFF POINT FOR ELECTRICITY. PLEASE CONFIRM WHETHER THE CONCESSIONING AUTHORITY ACCEPTS TO SECURE THE CONNECTION FROM WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED AS A CONDITIONS PRECEDENT UNDER ARTICLE 3.1.(B)	PLEASE REFER TO THE REPLY GIVEN IN RESPECT TO Q10. DETAILS CAN BE PROVIDED BY THE SERVICE PROVIDING

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

	T		AUTHORITY
110	DRAFT CONCESSION AGREEMENT	ARTICLE 7.2 (B) – PLEASE PROVIDE THE EXACT LOCATION OF THE TAKE OFF POINT FOR WATER. PLEASE CONFIRM WHETHER THE CONCESSIONING AUTHORITY ACCEPTS TO SECURE THE CONNECTION FROM DIAMOND HARBOUR MUNICIPALITY AS A CONDITIONS PRECEDENT UNDER ARTICLE 3.1.(B)	PLEASE REFER TO THE REPLY GIVEN IN RESPECT TO Q10. DETAILS CAN BE PROVIDED BY THE SERVICE PROVIDING AUTHORITY
111	DRAFT CONCESSION AGREEMENT	ARTICLE 7.2 (A) & (B) – PLEASE CONFIRM THAT THE ‘RIGHT OF WAY’ FROM THE SUBSTATION WILL BE GRANTED TO THE CONCESSIONAIRE FOR LAYING THE ELECTRICITY CABLES, WATER PIPE LINES ETC. WITHOUT ANY CHARGE.	PLEASE REFER TO THE REPLY GIVEN IN RESPECT TO Q10. DETAILS CAN BE PROVIDED BY THE SERVICE PROVIDING AUTHORITY
112	DRAFT CONCESSION AGREEMENT	<p>ARTICLE 7.3 – LIABILITY FOR SHORTFALL IN PERFORMANCE: THE CONCESSIONING AUTHORITY HAS SET OUT VARIOUS PERFORMANCE STANDARDS TO BE ACHIEVED BY CONCESSIONAIRE IN APPENDIX 15. COULD YOU PLEASE CLARIFY:</p> <ul style="list-style-type: none"> <li>(i) THERE IS A DIFFERENCE IN THE PERFORMANCE STANDARDS AS SET OUT IN APPENDIX 15 AND AS SET OUT IN THE TAMP ORDER. THE CONCESSIONING AUTHORITY IS REQUESTED TO TAKE THIS MATTER WITH TAMP AND SECURE AMENDMENTS.</li> <li>(ii) BARGES CANNOT BE HANDLED AT 22 MOVES PER HOUR AS MENTIONED IN THE PERFORMANCE STANDARDS OF THE TARIFF ORDER. THERE ARE DIFFERENT PRODUCTIVITY METRICS FOR DIFFERENT CATEGORIES OF VESSELS (SHIPS VS. BARGES). WHILE MOTHER-SHIPS (E.G. SHIPS CALLING AT JNPT) CAN BE SERVICED AT 25 MOVES PER HOUR, FEEDER VESSELS (THE ONES CALLING AT KOLKATA REGION) CAN BE HANDLED AT 17 MOVES PER HOURS. PRODUCTIVITY ON BARGES WOULD BE EVEN LESSER AT 12-15 MOVES PER HOURS. WE REQUEST KOPT TO APPROACH TAMP TO INTRODUCE THIS ADDITIONAL CATEGORY ON BARGES AND MODIFY PRODUCTIVITY GUIDELINES ACCORDINGLY.</li> <li>(iii) WHETHER THE CONCESSIONAIRE WILL BE ELIGIBLE FOR ANY INCENTIVE IN THE</li> </ul>	PERFORMANCE STANDARD AS SET OUT IN TAMP ORDER WILL PREVAIL. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014

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## DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

### REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		<p>FORM OF REDUCED REVENUE SHARE OR ADDITIONAL TARIFF IF THE PERFORMANCE NORMS ARE EXCEEDED;</p> <p>(iv) ONE OF THE PERFORMANCE STANDARD'S IS TRANSIT STORAGE DWELL TIME. THE CONCESSIONING AUTHORITY HAS SET A PENALTY IF THE AVERAGE DWELL TIME EXCEEDS THE PARAMETERS MENTIONED IN THE PERFORMANCE STANDARDS. IN THIS REGARD THE CONCESSIONING AUTHORITY MUST UNDERSTAND THE CONTAINER OPERATOR IS NOT IN CONTROL OF WHEN THE BOXES ARE REMOVED OR RECEIVED AT THE TERMINAL AND HENCE WE WOULD REQUEST THAT THIS PERFORMANCE STANDARDS BE DELETED.</p> <p>(v) THE PERFORMANCE STANDARD FOR TRANSIT STORAGE DWELL TIME SHOULD ALSO ENSURE THAT THE TRADE IS NOT INCENTIVIZED TO KEEP THEIR BOXES AT THE TERMINAL.</p> <p>(vi) THE PORT IS REQUESTED TO RECONSIDER THE RATE OF LIQUIDATED DAMAGES AND THE LEVEL OF SHORTFALL. IT IS SUGGESTED THAT THE RATE OF LIQUIDATED DAMAGES BE REDUCED TO 0.5% FOR EVERY 25% REDUCTION IN AVERAGE PERFORMANCE.</p>	
113	DRAFT CONCESSION AGREEMENT	ARTICLE 8.1. LEVY AND RECOVERY OF TARIFF – SHOULD THE REGIME OF TARIFF REGULATION BE ABOLISHED DURING THE TENURE OF THE CONCESSION PERIOD AND BE REPLACED BY A MECHANISM WHEREBY THE TARIFF BE DETERMINED THROUGH COMPETITIVE PRICING THEN PLEASE CONFIRM THAT THE CONCESSIONAIRE WILL BE ELIGIBLE TO THE SAME.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
114	DRAFT CONCESSION AGREEMENT	ARTICLE 8.1(A) – THE ARTICLE MENTIONS THAT APPLICABLE TARIFF GUIDELINES ARE AS SET OUT IN APPENDIX 12. PLEASE ATTACH THE CURRENT GUIDELINES AND ACCORDINGLY ISSUE AN AMENDMENT.	TAMP ORDER ABOUT REFERENCE TARIFF IS INCLUDED IN THE RFP DOCUMENT. PLEASE ALSO REFER TO CORRIGENDUM NO. DH/RFQ-II DT 05.02.2014 FOR ADDENDUM TO THE TAMP ORDER.
115	DRAFT CONCESSION	ARTICLE 9.1. (B) LICENSE FEE 1. "THE PROJECT AREA WILL BE ALLOTTED TO THE CONCESSIONAIRE ON 30 YEARS LEASE ON UPFRONT PREMIUM BASIS". THIS STATEMENT IS NOT CLEAR. PLEASE	PLEASE REFER TO REPLY GIVEN AGAINST Q2

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## DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

### REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

	AGREEMENT	<p>CLARIFY WHAT THE CONCESSIONING AUTHORITY MEANS BY UPFRONT PREMIUM BASIS.</p> <p>2. "THE RATE OF LEASE RENT WILL BE RS. 621 PER 100 SQ METER PER MONTH IN TERMS OF SCHEDULE OF RENT (INCLUDING ADDITIONAL 15% FOR THE PLOT ABUTTING THE SECOND ROAD)". PLEASE CLARIFY THE RATIONALE BEHIND ADDITIONAL 15% FOR THE PLOT ABUTTING THE SECOND ROAD. WHAT IS THE SIZE OF THE PLOT ABUTTING THE SECOND ROAD?</p> <p>3. "THE CONCESSIONAIRE WILL BE REQUIRED TO PAY UPFRONT PREMIUM OF RS. 621 PER 100 SQ M PER MONTH X TOTAL AREA TO BE ALLOTTED (36.956 HAC) AS PER ACTUAL MEASUREMENT X 12 MONTHS X 14.672 + MUNICIPAL TAX + SERVICE TAX".</p> <ul style="list-style-type: none"><li>▪ PLEASE NOTE THAT RS. 621 PER 100 SQ M PER MONTH IS PROHIBITIVE LEASE RENT. THE CONCESSIONING AUTHORITY IS REQUESTED TO REDUCE IT.</li><li>▪ PLEASE ADVISE THE RATIONALE BEHIND THE NUMBER 14.672</li><li>▪ WHY IS MUNICIPAL TAX PAYABLE? PLEASE REFER TO ARTICLE 12.2 (B) WHICH CLEARLY STATES THAT ANY LEVY OR LEVIES INCLUDING INCREASE THEREIN OF TAXES, DUTIES, CESS AND THE HIKE ON ACCOUNT OF/ IN RESPECT OF PORT'S ASSETS PAYABLE TO THE STATE GOVERNMENT OR ANY STATUTORY AUTHORITY SHALL BE MET AND PAID BY THE CONCESSIONING AUTHORITY.</li><li>▪ WHY IS A SERVICE TAX PAYABLE?</li></ul> <p>4. IT IS SUGGESTED THAT KOPT SECURES THE LAND FROM RELEVANT AUTHORITIES AND CHARGES A FIX RATE TO BE ESCALATED AT 2% PER ANNUM. SUCH SCHEDULE SHOULD BE ATTACHED AS AN APPENDIX AND ALL SUCH LICENSE FEE PAYABLE SHOULD BE MADE AVAILABLE TO THE CONCESSIONAIRE AT THE RFP STAGE.</p> <p>5. THERE IS NO MENTION ON THE LAND REQUIRED FOR THE RAILWAY SIDING. WHO WILL BUILD THE LAST MILE RAIL CONNECTION FROM THE PROPOSED PORT TO THE NEAREST RAILWAY STATION?</p> <p>6. ARE THERE ANY TREES ON THE PROJECT SITE? WILL THE CONCESSIONING AUTHORITY REMOVE THE TREES BEFORE PROVIDING THE PROJECT SITE?</p>	
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#### DISCLAIMER

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## **REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		WE REQUEST THAT THE LICENSE FEE BE FIXED FOR THE WHOLE CONCESSION PERIOD. ALTERNATIVELY, A FIXED ESCALATION AS PER CURRENT GUIDELINES OF MINISTRY OF SHIPPING MAY BE APPLIED. THIS WOULD REMOVE ANY AMBIGUITY ON THE COST STRUCTURES IN FUTURE OF THE CONCESSIONAIRE.	
116	DRAFT CONCESSION AGREEMENT	<b>ARTICLE 9.2.(A) – AS PER THE MODEL CONCESSION AGREEMENT THE CONCESSIONAIRE SHALL PAY TO THE CONCESSIONING AUTHORITY ROYALTY PER MONTH EQUIVALENT TO QUOTED PERCENTAGE OF GROSS REVENUE CHARGEABLE BY THE CONCESSIONAIRE. THE DCA SAYS THAT GROSS REVENUE SHALL BE COMPUTED ON THE BASIS OF MAXIMUM TARIFFS LEVIABLE. WHAT DOES THE CONCESSIONING AUTHORITY MEANS BY THIS?</b>	THE CLAUSES ARE SELF-EXPLANATORY
117	DRAFT CONCESSION AGREEMENT	<b>ARTICLE 9.3 - UTILITIES OR SERVICES – THE PROPOSITION THAT THE AUTHORITY WOULD CHARGE TWICE THE SCALE OF RATES FOR ANY PREMISES OR ADDITIONAL UTILITIES OR SERVICES, MADE AVAILABLE ARE DISCRIMINATORY AND OF A PENAL NATURE AND GOES COMPLETELY AGAINST THE CONCEPT OF THE PUBLIC-PRIVATE PARTNERSHIP. IT IS THEREFORE REQUESTED THAT SUCH ADDITIONAL FACILITIES, IF PERMITTED BY THE CONCESSIONING AUTHORITY, BE PROVIDED AT THE SCALE OF RATES AS NOTIFIED.</b>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
118	DRAFT CONCESSION AGREEMENT	<b>ARTICLE 9.3 – UTILITIES AND SERVICES –PLEASE PROVIDE THE PRESENT RATES APPLICABLE IN RESPECT OF LAND, UTILITIES AND SERVICES.</b>	AVAILABLE ON KOPT WEBSITE  <a href="http://www.kolkataporttrust.gov.in/rent_schedule_kds080411.pdf">HTTP://WWW.KOLKATAPORTTRUST.GOV.IN/RENT_SCHEDULE_KDS080411.PDF</a>
119	DRAFT CONCESSION AGREEMENT	<b>ARTICLE 9.4 - CERTIFIED ACCOUNTS –</b> <b>1. IN ARTICLE 9.4 THE WORDS “DETAILS OF CARGO HANDLED BY CATEGORY” NEEDS TO BE DELETED. THE CONCESSIONAIRE IS ONLY HANDLING CONTAINERS AND HENCE ONLY DETAILS OF CONTAINERS HANDLED IN TERMS OF THEIR SIZE CAN BE PROVIDED. THE OPERATORS DO NOT HAVE OR MAINTAIN ANY DATA ON THE CARGO IN THE CONTAINERS.</b> <b>2. IT IS IMPORTANT THAT THE CONCESSIONING AUTHORITY CLEARLY SPECIFIES “DOCUMENTS AND SUPPORTING EVIDENCES THERE TO” THAT ARE REQUIRED AS REFERRED TO IN THE 2ND PARAGRAPH. PLEASE BE ADVISED THAT THE</b>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		CONTAINER TERMINAL OPERATOR HAS AVAILABILITY ONLY TO A LIMITED NUMBER OF DOCUMENTS AND HENCE THESE NEED TO BE DISCUSSED WITH THE AUTHORITY AND SPECIFIED UPFRONT.	
120	DRAFT CONCESSION AGREEMENT	<p><b>ARTICLE 9.5.(A). - ESCROW ACCOUNT – WE SUGGEST THE FOLLOWING WITHDRAWALS AND APPROPRIATIONS DURING THE CONCESSION PERIOD, AT ANY RELEVANT TIME, FROM THE ESCROW ACCOUNT SHALL BE IN THE FOLLOWING ORDER OF PRIORITY</b></p> <ul style="list-style-type: none"> <li><b>(i) FOR ALL TAXES DUE AND PAYABLE BY THE CONCESSIONAIRE</b></li> <li><b>(ii) ALL CONSTRUCTION/ IMPLEMENTATION EXPENSES RELATING TO THE PROJECT/ PROJECT FACILITIES AND SERVICES, SUBJECT TO LIMITS IF ANY SET OUT UNDER THE FINANCING DOCUMENTS</b></li> <li><b>(iii) ALL EXPENSES RELATING TO OPERATIONS AND MANAGEMENT OF THE PROJECT/ PROJECT FACILITIES AND SERVICES, SUBJECT TO LIMITS IF ANY SET OUT UNDER THE FINANCING DOCUMENTS</b></li> <li><b>(iv) TOWARDS IT DEBT SERVICE OBLIGATIONS UNDER THE FINANCING DOCUMENTS</b></li> <li><b>(v) TOWARDS ANY RESERVE REQUIREMENTS IN ACCORDANCE WITH THE FINANCING DOCUMENTS</b></li> <li><b>(vi) TOWARDS PAYMENT OF LICENSE FEE</b></li> <li><b>(vii) TOWARDS PAYMENT OF ROYALTY AND OTHER SUMS PAYABLE TO THE CONCESSIONING AUTHORITY AND LIQUIDATED DAMAGES, IF ANY</b></li> </ul>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
121	DRAFT CONCESSION AGREEMENT	<b>ARTICLE 10.1 (A) – THE ARTICLE STATES THAT “FURTHER, ANY SUCH RIGHTS OF THE CONCESSIONAIRE SHALL ALWAYS BE SUBJECT TO EXISTING RIGHTS OF WAY”. PLEASE EXPLAIN WHAT DOES THIS MEAN?</b>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
122	DRAFT CONCESSION AGREEMENT	<b>ARTICLE 11 – SHAREHOLDING - ARTICLE 11 REQUIRES THAT PRIOR APPROVAL OF THE AUTHORITY IS REQUIRED FOR ANY TRANSFER OF SHAREHOLDING IN THE CONCESSIONAIRE AND / OR DIRECT OR INDIRECT CHANGE IN THE MANAGEMENT CONTROL OF THE CONCESSIONAIRE. IN THIS REGARD WE REQUEST THAT THE NEED TO APPROACH THE</b>	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

	T	CONCESSIONING AUTHORITY FOR TRANSFER OF SHAREHOLDING SHOULD ONLY BE IN CASES WHERE THE TRANSFER IS IN EXCESS OF 25% OF THE LEGAL OR BENEFICIAL INTEREST IN THE EQUITY SHAREHOLDING OF THE CONCESSIONAIRE. IT IS IMPORTANT THAT THE CONCESSIONING AUTHORITY ALSO SETS A TIME WITHIN WHICH IT WOULD RESPOND TO SUCH A REQUEST AS REQUIRED UNDER THIS ARTICLE.	
123	DRAFT CONCESSION AGREEMENT	ARTICLE 12.1 (F) (ii) – FROM THIS ARTICLE IT SEEMS THAT THE INTENT IS THAT EVERY CONTRACTOR WHO WORKS AT THE TERMINAL NEEDS REQUISITE SECURITY CLEARANCE. WE SUGGEST THAT THIS ARTICLE BE DELETED SINCE THE SAME IS NOT APPLICABLE TO OTHER CONTRACTORS / USERS AT THE PORT. IT IS ALSO NOT CLEAR FROM WHOM THE SAID SECURITY CLEARANCE NEEDS TO BE OBTAINED.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
124	DRAFT CONCESSION AGREEMENT	ARTICLE 13.1 (c) – CHANGE IN LAW – ON REVIEW OF THE SAID ARTICLE IT IS FOUND THAT THE FOLLOWING SHALL NOT CONSTITUTE CHANGE IN LAW. (i) IMPOSITION OF STANDARDS AND CONDITION OF OPERATIONS, MAINTENANCE AND SAFETY ARISING OUT OF A NEW OR REVISED ENVIRONMENTAL LAW; (ii) ANY RULES OR REGULATIONS STIPULATED BY REGULATORY AUTHORITY HAVING JURISDICTION OVER THE PROJECT IN RESPECT OR STANDARDS OF SERVICE. IT IS COMMON KNOWLEDGE THAT SUCH CHANGES COULD HAVE MATERIAL ADVERSE EFFECT ON THE PROJECT AND HENCE REQUEST THAT THE SAME BE DELETED.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
125	DRAFT CONCESSION AGREEMENT	ARTICLE 13.2 (E) - WE REQUEST THAT THE FOLLOWING PARAGRAPH BE DELETED SINCE SUCH INSURANCE EVEN IF AVAILABLE WOULD BE VERY EXPENSIVE AND IT HAS NOT BEEN CONSIDERED AS PART OF THE COST DURING UPFRONT TARIFF SETTING: "NOTWITHSTANDING THE AFORESAID, IF IN TERMS OF GOOD INDUSTRY PRACTICE, THE EVENT CONSTITUTING A CHANGE IN LAW COULD BE INSURED, THE CONCESSIONAIRE SHALL NOT BE ENTITLED TO ANY REMEDY UNDER THIS ARTICLE 13.2" THE OBJECTIVE OF ANY CHANGE IN LAW ARTICLE IS TO COMPENSATE THE CONCESSIONAIRE BY MATTERS COMPLETELY OUTSIDE ITS CONTROL WHICH HAVE A BEARING ON THE CONTRACT AND RESULTING IN MATERIAL ADVERSE EFFECT. THE REQUIREMENT THAT THE CONCESSIONAIRE PAYS ANY AMOUNT IF IT INCURS ANY REDUCTION IN COST OR OTHER FINANCIAL GAIN OR BENEFIT IN CONNECTION WITH OPERATION OR DEVELOPMENT OF THE	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		PROJECT IS UNFAIR SINCE THE CONCESSIONAIRE HAS TO BEAR A NUMBER OF RISK WHICH IT IS NOT PROTECTED AGAINST. IT WOULD BE THEREFORE PRUDENT THAT THIS ARTICLE BE REVIEWED AND DELETED.	
126	DRAFT CONCESSION AGREEMENT	ARTICLE 15.1 (A) (i) – WE SUGGEST THAT THE FOLLOWING WORDS BE ADDED AT THE END OF THIS CLAUSE AFTER THE WORD AGREEMENT “WHICH HAS OR IS LIKELY TO AFFECT THE PROJECT / THE PROJECT FACILITIES AND SERVICES, MATERIALLY”.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
127	DRAFT CONCESSION AGREEMENT	ARTICLE 15.1 (A) (iv) – WE BELIEVE THAT THIS ARTICLE NEEDS TO BE REASONABLE AND WOULD REQUEST THE DELAY IN PAYMENT OF ROYALTY ARTICLE BE REWORDED AS FOLLOWS “IF THE CONCESSIONAIRE, AT ANY TIME, DEFAULTS IN THE PAYMENT OF ROYALTY AND SUCH DEFAULT IS NOT RECTIFIED WITHIN 30 DAYS OF RECEIPT OF THE NOTICE FROM THE CONCESSIONING AUTHORITY.”	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
128	DRAFT CONCESSION AGREEMENT	ARTICLE 15.1 (A) (x) – WE WOULD REQUEST THAT THE FOLLOWING BE ADDED AT THE END OF THE ARTICLE “AND PROVIDED SUCH APPOINTMENT IS NOT STAYED WITHIN A PERIOD OF 30 DAYS”.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
129	DRAFT CONCESSION AGREEMENT	ARTICLE 15.1 (A) (xv) – THE CONCESSIONING AUTHORITY PLEASE CLARIFY WHAT IS MEANT BY “BENEFICIAL INTEREST”.	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA
130	DRAFT CONCESSION AGREEMENT	ARTICLE 17 - COMPENSATION – THE CONCESSION AGREEMENT IS FOR A PERIOD OF 30 YEARS AND NORMALLY ONE WOULD FIND THAT THERE WOULD BE STEADY REDUCTION IN THE AMOUNT OF DEBT DUE OVER A PERIOD OF TIME LARGELY TENDING TO AN MINIMAL OR IMMATERIAL AMOUNT AFTER THE FIRST 7 TO 8 YEARS OF THE PROJECT. IN SUCH CASES THE USE OF DEBT DUE MAY NOT BE AN APPROPRIATE COMPENSATION ESPECIALLY IF IT IS MEANT TO BE “LOWER OR LOWEST”. THEREFORE WE SUGGEST THE FOLLOWING:	THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA

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		<ul style="list-style-type: none"> <li>▪ IN CASE OF ARTICLE 17.1. (A) (I) – THE COMPENSATION SHOULD BE HIGHER OF THE BOOK VALUE OR DEBT DUE.</li> <li>▪ IN THE CASE OF ARTICLE 17.1. (B) – WE SUGGEST THIS ARTICLE 17.1 (B) BE DELETED AND A PROVISIO BE INSERTED STATING THAT THE COMPENSATION UNDER THIS ARTICLE SHALL UNDER NO CIRCUMSTANCES BE LOWER THAN 90% OF DEBT DUE.</li> </ul>	
131	DRAFT CONCESSION AGREEMENT APPENDIX	<p><b>APPENDIX 1 – PROJECT SITE</b></p> <ol style="list-style-type: none"> <li>1. PLEASE PROVIDE A <u>AUTO CAD LAYOUT</u> OF PROJECT SITE TO BE HANDED OVER TO THE CONCESSIONAIRE</li> <li>2. PLEASE PROVIDE DETAILS OF ROAD ACCESS TO PROJECT SITE.</li> <li>3. PLEASE CONFIRM THAT ROAD INFRASTRUCTURE WILL BE PROVIDED BY THE DATE OF AWARD IN ORDER TO HAVE UNFETTERED ACCESS TO THE SITE</li> <li>4. PLEASE PROVIDE DETAILS OF RAIL ACCESS TO PROJECT SITE</li> <li>5. PLEASE CONFIRM THAT RAIL INFRASTRUCTURE WILL BE PROVIDED BY THE DATE OF</li> <li>6. AWARD IN ORDER TO HAVE UNFETTERED ACCESS TO THE SITE</li> </ol> <p>GENERAL: PLEASE PROVIDE THE EXACT LOCATION OF CONTRACTORS WORKING AREA DURING CONSTRUCTION PERIOD.</p>	<ol style="list-style-type: none"> <li>1. AUTOCAD DRAWING CAN BE COLLECTED FROM THE NODAL OFFICER FOR THE PROJECT</li> <li>2. ROAD ACCESS IS AS PER MAP IN THE FEASIBILITY REPORT</li> <li>3. YES</li> <li>4. PLEASE REFER TO FEASIBILITY REPORT</li> <li>5. PLEASE REFER TO FEASIBILITY REPORT</li> <li>6. QUESTION IS NOT CLEAR</li> </ol>
132	DRAFT CONCESSION AGREEMENT APPENDIX	<p><b>APPENDIX 4 - PROJECT REQUIREMENTS</b></p> <ol style="list-style-type: none"> <li>1. PROJECT REQUIREMENTS SHOULD BE PROVIDED FOR BOTH THE MILESTONES TO AVOID ANY CONFUSION. FOR EXAMPLE, UNDER MILESTONE 1, THE CONCESSIONAIRE WILL HAVE TO CREATE 450 M X 35.5 M OF BERTH, REQUIRED NUMBER OF APPROACH TRESTLE, DEVELOP 18 HA OF LAND FOR CONTAINER STORAGE, PROCURE 3 QC AND 12 RTGs ETC.</li> <li>2. WHAT IS THE MAXIMUM SIZE OF THE VESSEL THAT CAN CALL AT DIAMOND HARBOUR?</li> <li>3. IT IS SUGGESTED TO REDUCE THE SIZE OF THE BERTH TO 800 M AS THE MAXIMUM LOA OF SHIPS WOULD BE AROUND 220 METERS AND THEREFORE 900 METERS</li> </ol>	<ol style="list-style-type: none"> <li>1. PLEASE READ AMENDED APPENDIX 4 WITH APPENDIX 5. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014</li> <li>2. PLEASE REFER TO FEASIBILITY REPORT</li> <li>3. REQUEST CANNOT BE ACCEDDED TO</li> <li>4. PLEASE REFER TO FEASIBILITY REPORT</li> </ol>

DCA- DRAFT CONCESSION AGREEMENT; FEASIBILITY REPORT- TECHNICAL FEASIBILITY REPORT; TA-TRANSACTION ADVISER, M/s ERNST & YOUNG

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		<p>MAY NOT BE REQUIRED.</p> <p>4. WHAT IS THE RATIONALE BEHIND A QUAY LENGTH OF 35.5 METER? WHETHER 35.5 M IS THE MINIMUM OR MAXIMUM REQUIRED WIDTH?</p> <p>5. ON EQUIPMENTS, PLEASE CONFIRM WHETHER THESE HAVE TO BE PURCHASED?</p> <p>6. PLEASE ALSO CONFIRM IF EQUIPMENTS CAN BE TAKEN ON LEASE?</p> <p>7. SERIAL NUMBER 6 REQUIRES THE CONCESSIONAIRE TO CONSTRUCT A RAIL YARD OF 19,910 SQ METERS FOR TWO BG TRACK OF ADEQUATE LENGTH TO PLACE FULL RAKE. PLEASE ADVISE IF THERE IS NO RAILWAY CONNECTIVITY ENVISAGED IN THE INITIAL YEARS, THEN NEED FOR A RAIL YARD DOES NOT ARISE. HENCE, KOPT IS REQUESTED TO ISSUE SUITABLE AMENDMENTS.</p> <p>8. PLEASE PROVIDE THE RAIL ALIGNMENT PLAN.</p> <p>9. PLEASE ADVISE WHAT IS THE APPROXIMATE LOCATION AND DISTANCE OF THE NEAREST DRAINAGE AND SEWERAGE OUTFALL FROM THE TERMINAL BOUNDARY.</p> <p>10. SERIAL NUMBER (ii).2 REQUIRES THE CONCESSIONAIRE TO PROVIDE FOR 2 RMGC. PLEASE NOTE THAT IF THERE IS NO RAILWAY CONNECTIVITY ENVISAGED IN THE INITIAL YEARS, THEN NEED FOR A RMGCs DO NOT ARISE. HENCE, KOPT IS REQUESTED TO ISSUE SUITABLE AMENDMENTS</p> <p>11. SERIAL NUMBER (ii).3 REQUIRES THE CONCESSIONAIRE TO PROVIDE FOR 1 MHC. IT IS SUGGESTED THAT THE CONCESSIONING AUTHORITY MAY REMOVE THIS AND LEAVE THE OPTION OF ADEQUATE EQUIPMENTS REQUIRED FOR BARGE HANDLING TO THE CONCESSIONAIRE.</p> <p>12. SERIAL NUMBER (ii).4 REQUIRES THE CONCESSIONAIRE TO PROVIDE FOR 21 RTG. PLEASE NOTE THAT FOR 6 QCs ONLY 18 RTGs ARE REQUIRED AND NO MORE. HENCE, KOPT IS REQUESTED TO ISSUE SUITABLE AMENDMENTS</p> <p>13. CAN THE CONCESSIONAIRE HAVE THE FREEDOM OF CHOOSING 16 WHEEL OR 8 WHEEL RTG?</p> <p>14. SERIAL NUMBER (ii).6 REQUIRES THE CONCESSIONAIRE TO PROVIDE FOR 75 TRACTOR TRAILERS. PLEASE NOTE THAT SUCH A HUGE NUMBER OF TTs ARE NOT REQUIRED AND IT MAY BE LIMITED TO 42 TTs.</p>	<p>5. EQUIPMENTS WILL HAVE TO BE PURCHASED</p> <p>6. No</p> <p>7. RAILWAY CONNECTIVITY IS LINKED WITH DEVELOPMENT OF SAGAR PORT AND NOT ENVISAGED BEFORE 2024-25</p> <p>8. SINCE THE CONNECTIVITY WILL BE LINKED WITH DEVELOPMENT OF SAGAR PORT, ALIGNMENT CANNOT BE INDICATED AT PRESENT</p> <p>9. DIAMOND HARBOUR MUNICIPALITY MAY BE CONSULTED</p> <p>10. PLEASE REFER TO (7) ABOVE</p> <p>11. REQUEST CANNOT BE ACCEDED TO</p> <p>12. REQUEST CANNOT BE ACCEDED TO</p> <p>13. SUBJECT TO APPROVAL OF INDEPENDENT ENGINEER THE CONCESSIONAIRE CAN CHOOSE THE EQUIPMENT TYPE</p> <p>14. REQUEST CANNOT BE ACCEDED TO</p> <p>15. REQUEST CANNOT BE ACCEDED TO</p> <p>16. DREDGING, IF REQUIRED WILL BE CARRIED OUT BY THE CONCESSIONING AUTHORITY</p>
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		<p><b>15. SERIAL NUMBER (iii) REQUIRES THE CONCESSIONAIRE TO CARRY OUT DETAILED GEO-TECHNICAL INVESTIGATIONS OF THE SITE INCLUDING INVESTIGATION ALONG THE BERTH WITH BORE HOLES AT 50 M CENTER TO CENTER. PLEASE NOTE THAT SUCH A REQUIREMENT IS NOT REQUIRED AS THE CONCESSIONAIRE WILL BE CONSTRUCTING THE BERTH AND ALL SUCH DETAILS WILL BE SHARED WITH THE CONCESSIONING AUTHORITY UNDER THE CONCESSION AGREEMENT. HENCE, THIS CLAUSE SHOULD BE DELETED.</b></p> <p><b>16. DREDGING: PLEASE CLARIFY DIMENSIONS OF BERTH POCKET THAT WILL BE DREDGED BY THE CONCESSIONING AUTHORITY.</b></p> <p><b>17. PLEASE CLARIFY THE DIMENSIONS OF TURNING CIRCLE TO BE DREDGED BY CONCESSIONING AUTHORITY</b></p>	<b>17. PLEASE REFER TO (16) ABOVE</b>
<b>133</b>	<b>DRAFT CONCESSION AGREEMENT APPENDIX</b>	<p><b>D ANNEXURE ON CONSTRUCTION STANDARDS, OPERATIONS AND MAINTENANCE -</b></p> <p><b>(i) PAGE 152 OF THE DRAFT CONCESSION AGREEMENT – IN SECTION E ON OPERATIONS AND MAINTENANCE STANDARDS THE FOLLOWING PHRASE IS NOT RELEVANT AND MAY BE DELETED. “THE CONCESSIONAIRE SHALL ABIDE BY THE OPERATIONS AND MAINTENANCE PLAN AS OUTLINED IN THE APPROVED DPR”</b></p>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>
<b>134</b>	<b>DRAFT CONCESSION AGREEMENT APPENDIX</b>	<p><b>F SAFETY STANDARDS</b></p> <p><b>PLEASE NOTE THAT FOR A CONTAINER TERMINAL THE FOLLOWING STANDARDS DO NOT APPLY AND THUS REMOVED FROM THE DRAFT CONCESSION AGREEMENT.</b></p> <ol style="list-style-type: none"> <li><b>1. OSID – GUIDELINES – 156 (OIL INDUSTRY SAFETY DIRECTORATE): FIRE PROTECTION FACILITIES FOR PORT OIL TERMINALS</b></li> <li><b>2. NATIONAL FIRE CODES (NATIONAL FIRE PROTECTION ASSOCIATION – USA)</b></li> <li><b>3. INTERNATIONAL SAFETY GUIDE FOR OIL TANKERS &amp; TERMINALS</b></li> <li><b>4. THE MANUFACTURE, STORAGE AND IMPORT OF HAZARDOUS CHEMICALS RULES, 1989</b></li> <li><b>5. THE PETROLEUM ACT, 1934 ALONG WITH THE PETROLEUM RULES</b></li> <li><b>6. GUIDELINES BY THE FIRE ADVISOR, CCE &amp; DG FASLI, GOVERNMENT OF INDIA</b></li> </ol>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>

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135	DRAFT CONCESSION AGREEMENT APPENDIX	<p><b>APPENDIX 5 PROJECT SCHEDULE</b></p> <p>THE PROJECT SCHEDULE SHOULD ALSO INCLUDE THE TIMELINES FOR DREDGING WORKS BY THE CONCESSIONING AUTHORITY.</p> <p>PLEASE EXTEND THE MILESTONE I COMPLETION TIME FROM 26 MONTHS FROM THE DATE OF AWARD TO 36 MONTHS FROM THE DATE OF AWARD AND SHIFT MILESTONE II COMPLETION TIME FROM 48 MONTHS FROM THE DATE OF AWARD TO 60 MONTHS FROM THE DATE OF AWARD</p>	<p>NO DREDGING IS ENVISAGED FOR THE PROJECT</p> <p>REQUEST CANNOT BE ACCEDDED TO</p>
136	DRAFT CONCESSION AGREEMENT APPENDIX	<p><b>APPENDIX 6 DESIGN AND DRAWINGS –</b></p> <p>SUBSECTION II - AS ALREADY EXPLAINED EARLIER IN THIS NOTE THE COMMENTS ON ARTICLE 6.2, DESIGNS, DRAWINGS AND TECHNICAL SPECIFICATION ARE NOT SHARED BY EQUIPMENT MANUFACTURERS AND ARE OF A PROPRIETARY NATURE. THEREFORE ALL REFERENCES TO DRAWINGS RELATED TO EQUIPMENTS MAY BE REMOVED FROM THE LIST</p>	<p>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</p>
137	DRAFT CONCESSION AGREEMENT APPENDIX	<p><b>APPENDIX 7 TERMS OF REFERENCE FOR INDEPENDENT ENGINEER –</b></p> <ul style="list-style-type: none"> <li>▪ AS REQUESTED EARLIER IN THE REVIEW OF THE INDEPENDENT ENGINEER SHOULD BE LIMITED TO THE CIVIL WORKS AND THE CONCESSIONAIRE MAY PROVIDE THE NECESSARY CERTIFICATION, THIRD PARTY EXPERT WITH REGARD TO THE EQUIPMENT.</li> <li>▪ POINT 1(i) MAY BE DELETED AS IT IS NOT RELEVANT. THERE IS NO NEED FOR A DPR TO BE MADE ONCE THE DATE OF AWARD IS ACHIEVED AND THE CONCESSIONAIRE SHALL PROCEED DIRECTLY TOWARDS DETAIL DESIGN WHICH HAS TO BE APPROVED BY THE INDEPENDENT ENGINEER</li> <li>▪ POINT 1 (vi) IN THESE TERMS OF REFERENCE SEEM TO BE BEYOND THE PURVIEW OF WHAT IS THE TRADITIONAL SCOPE OF WORK OF AN INDEPENDENT ENGINEER. THE SAME SHOULD BE DELETED.</li> <li>▪ AS REGARDS POINT 1 (vii) PLEASE CLARIFY WHAT OTHER DUTIES AND FUNCTIONS ARE ENVISAGED TO BE PERFORMED BY THE ENGINEER.</li> <li>▪ FURTHER, E.G. UNDER POINT 2 (ii) THE INDEPENDENT ENGINEER MAY REVIEW AND COMMENT ON THESE ITEMS AND REQUEST THE CONCESSIONAIRE TO CONSIDER HIS</li> </ul>	<p>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</p>

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		<p>COMMENTS. IT NEEDS TO BE CLARIFIED THAT WHILE THE CONCESSIONAIRE MAY IMPLEMENT SUCH RECOMMENDATIONS AT HIS DISCRETION BUT HE CANNOT BE COMPELLED AND OBLIGED TO IMPLEMENT. AS LONG AS THE CONSTRUCTION CARRIED OUT BY THE CONCESSIONAIRE MEETS THE PROJECT REQUIREMENTS AND STANDARDS AND IS CERTIFIED BY A THIRD PARTY EXPERT THAT SHOULD SUFFICE.</p> <ul style="list-style-type: none"><li>▪ POINT 2(xiii) – THE INDEPENDENT ENGINEER ALSO HAS TO ISSUE AN INTERIM COMPLETION CERTIFICATE SHOULD THE CONCESSIONAIRE EXERCISE TWO PHASE OPTION. THIS HAS TO BE ADDED IN THE TERMS OF REFERENCE OF INDEPENDENT ENGINEER.</li></ul>			
138	DRAFT CONCESSION AGREEMENT APPENDIX	<p>APPENDIX 8 – PERMITS, CLEARANCES TO BE OBTAINED</p> <ul style="list-style-type: none"><li>▪ PLEASE PROVIDE A COPY OF THE ENVIRONMENT CLEARANCE?</li><li>▪ PLEASE INCLUDE CONSENT TO ESTABLISH, FOREST CLEARANCE AND CLEARANCE FROM STATE POLLUTION CONTROL BOARD AS A LIST OF THE PERMITS TO BE OBTAINED BY CONCESSIONING AUTHORITY.</li></ul>			ENVIRONMENTAL CLEARANCE IS UNDER PROCESS
139	DRAFT CONCESSION AGREEMENT APPENDIX	<p>APPENDIX 13 - PLEASE PROVIDE THE CURRENT RATES APPLICABLE AND ESCALATION THEREOF IN RESPECT OF LAND (OTHER THAN LICENSE PREMISES), UTILITIES AND SERVICES.</p>			AVAILABLE ON KOPT WEBSITE <a href="http://www.kolkataporttrust.gov.in/rent_schedule_kds080411.pdf">HTTP://WWW.KOLKATAPORTTRUST.GOV.IN/RENT_SCHEDULE_KDS080411.PDF</a>
140	DRAFT CONCESSION AGREEMENT APPENDIX	<p>APPENDIX 14 MINIMUM GUARANTEED THROUGHPUT – THE PROPOSED PROJECT IS LARGE IN SIZE AND IN RESPECT OF THE VOLUME OF CAPITAL TO BE INVESTED AND COMPETITION WITH NEIGHBORING PORTS, THE CONCESSIONAIRE WILL BE HARD PRESSED TO ATTRACT TRAFFIC VOLUMES IN THE INITIAL YEARS.</p>			REQUEST CANNOT BE ACCDED TO
		PERIOD STARTING FROM THE DATE OF AWARD OF CONCESSION	MINIMUM GUARANTEED CARGO (TEUs) - SINGLE PHASE OPTION	MINIMUM G CARGO (TEU PHASE OPTIO	

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		1ST YEAR	0	0	
		2ND YEAR	0	0	
		3RD YEAR	0	0	
		4TH YEAR	0	0	
		5TH YEAR	0	0	
		6TH YEAR-10TH YEAR	100,000	100,000	
		11TH YEAR-15TH YEAR	300,000	300,000	
		16TH YEAR-20TH YEAR	500,000	500,000	
		21ST YEAR-30TH YEAR	700,000	700,000	
		141	DRAFT CONCESSION AGREEMENT APPENDIX	APPENDIX 15 – PERFORMANCE STANDARDS –	
CARGO CATEGORY	INDICATIVE NORMS AS PER DCA			INDICATIVE NORMS AS PER TARIFF ORDER	
MAIN LINE VESSEL	25 MOVES PER HOUR PER CRANE			25 MOVES PER HOUR PER CRANE	
FEEDER VESSEL	17 MOVES PER HOUR			22 MOVES PER HOUR	
PERFORMANCE PARAMETER	AS PER DCA			AS PER TAMP ORDER	
IMPORT - CONTAINER (AT TERMINAL)	3 DAYS BY ROAD AND 7 DAYS BY RAIL/BARGE			3 DAYS BY ROAD AND 7 DAYS BY RAIL/BARGE	
EXPORT - CONTAINER (AT TERMINAL)	5 DAYS BY ROAD AND 7 DAYS BY RAIL/BARGE			4 DAYS BY ROAD AND 7 DAYS BY RAIL/BARGE	
THERE ARE DIFFERENCES IN THE PERFORMANCE STANDARDS AS PER DCA AND AS PER TAMP ORDER. WE REQUEST THE CONCESSIONING AUTHORITY TO APPROACH TAMP AND GET IT RECTIFIED.					

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		<b>ALSO, PRODUCTIVITY REQUIREMENTS FOR FEEDER VESSELS SHOULD BE REDUCED TO 12 MOVES PER HOUR.</b>	
<b>142</b>	<b>DRAFT CONCESSION AGREEMENT APPENDIX</b>	<b>APPENDIX 16, CLAUSE 2.3.3 – IDEALLY THE REQUIREMENT OF SUBMISSION OF BUDGET TO CONCESSIONING AUTHORITY COULD BE DISPENSED WITH AS INTEREST OF PORT IS COVERED BY CLAUSE 4 UNDER THE ESCROW AGREEMENT.</b>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>
<b>143</b>	<b>DRAFT CONCESSION AGREEMENT APPENDIX</b>	<b>APPENDIX 16, CLAUSE 2.3.3 – WHILE THE BUDGET IS SUBMITTED FOR FINANCIAL YEAR, THE CONCESSIONAIRE SHOULD BE ALLOWED TO UPDATE THE PROJECTIONS EVERY THREE MONTHS SO THAT FUNDS EARMARKED IN ESCROW ACCOUNT ARE ALIGNED IN LINE WITH ACTUAL PERFORMANCE QUARTER OVER QUARTER.</b>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>
<b>144</b>	<b>DRAFT CONCESSION AGREEMENT APPENDIX</b>	<b>APPENDIX 16, CLAUSE 2.3.2 READ WITH 4.1.1 – CLAUSE 2.3.2 STATES THAT THE ESCROW BANK SHALL MAINTAIN THE ESCROW ACCOUNT IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT AND ITS USUAL PRACTICES AND APPLICABLE REGULATIONS, AND PAY THE MAXIMUM RATE OF INTEREST PAYABLE TO SIMILAR CUSTOMERS ON THE BALANCE IN THE SAID ACCOUNT FROM TIME TO TIME. CLAUSE 4.1.1 STATES THAT AT THE BEGINNING OF EVERY MONTH, OR AT SUCH SHORTER INTERVALS AS THE LENDER'S REPRESENTATIVE AND THE CONCESSIONAIRE MAY BY WRITTEN INSTRUCTIONS DETERMINE, THE ESCROW BANK SHALL WITHDRAW AMOUNTS FROM THE ESCROW ACCOUNT AND APPROPRIATE THEM IN THE FOLLOWING ACCOUNT BY DEPOSITING SUCH AMOUNTS IN THE RELEVANT SUB-ACCOUNTS FOR MAKING DUE PAYMENTS IN A MONTH. PLEASE NOTE THAT THE FUNDS ALREADY IN THE ESCROW ACCOUNT OR RELEVANT SUB-ACCOUNTS TILL THE TIME IT IS ACTUALLY DISBURSED WILL EARN INTEREST AS PER CLAUSE 2.3.2 OF THE ESCROW AGREEMENT. THE RATE OF INTEREST IS NOT CLEAR AS PER THE</b>	<b>THE CLAUSE IS AS PER MCA OF GOVT. OF INDIA</b>

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		<p>CLAUSE. THE CONCESSIONAIRE THEREFORE MAY LOSE OUT ON INTEREST INCOME. IN ORDER TO PREVENT THAT THE CONCESSIONAIRE SHOULD BE ALLOWED TO BE INVEST THE EARMARKED SUMS IN SHORT TERM FIXED DEPOSIT EITHER WITH THE ESCROW BANK OR ANY OTHER BANK OR MUTUAL FUNDS WHERE LIEN IS MARKED IN FAVOUR OF ESCROW ACCOUNT AND RELEVANT SUB-ACCOUNTS?</p> <p>PLEASE ADVISE WHETHER A BANK GUARANTEE CAN REPLACE THE RESERVE REQUIREMENT?</p>	
145	<u>FEASIBILITY REPORT</u>	<p>SECTION 2.1:</p> <ol style="list-style-type: none"> <li>1) PLEASE ADVISE WHETHER A TWO WAY MOVEMENT OF VESSELS IN THE CHANNEL IS PERMITTED. CAN TWO VESSELS PASS EACH OTHER?</li> <li>2) HOW MUCH TIME DOES IT TAKE FOR A VESSEL TO TRAVEL FROM SANDHEADS TO DIAMOND HARBOUR?</li> <li>3) WHAT IS THE AVERAGE WAITING TIME THAT VESSELS WAIT IN ANTICIPATION OF TIDE?</li> <li>4) PLEASE ADVISE WHETHER 24 X 7 NAVIGABILITY IS AVAILABLE FROM SANDHEADS TO DIAMOND HARBOUR</li> </ol>	<ol style="list-style-type: none"> <li>1) YES</li> <li>2) DISTANCE IS 145 KM. VESSELS MAY REQUIRE TO MOVE WITH OR AGAINST THE TIDE AND TRAVEL TIME WILL DEPEND ON THE SPEED OF THE VESSEL</li> <li>3) MAXIMUM 12 HOURS</li> <li>4) YES</li> </ol>
146	<u>FEASIBILITY REPORT</u>	<p>SECTION 4.1.2: WHAT IS THE STATUS OF THE NEW LINKAGE SANCTIONED FOR THE PROPOSED SAUGOR PORT CONNECTING KAKDWIP-KULPI-GURUDAS NAGAR-PUJALI BRIDGE ACROSS RIVER HUGLI-ULUBERIA-ANDUL-DANKUNI CONNECTING TO THE DFC? WILL THE PROPOSED DIAMOND HARBOUR BE CONNECTED TO THIS? PLEASE CONFIRM WHETHER THIS CAN BE PUT AS A COMMITMENT OF THE PORT UNDER SUPPORTING</p>	<p>PRESENT STATUS CAN BE ASCERTAINED FROM INDIAN RAILWAYS. SINCE THE RAIL CONNECTIVITY IS LINKED TO DEVELOPMENT OF SAGAR PORT, THE SAME CANNOT BE PUT</p>

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		PROJECT INFRASTRUCTURE.	AS A COMMITMENT UNDER SUPPORTING PROJECT INFRASTRUCTURE FOR THE PRESENT PROJECT.
147	<u>FEASIBILITY REPORT</u>	SECTION 4.1.4: IT STATES THAT AROUND 3/4 EXCHANGE YARD AROUND DIAMOND HARBOUR STATION HAS TO BE CREATED TO ESTABLISH RAILWAY CONNECTIVITY. WHO WILL UNDERTAKE THESE WORKS?	THE LOCATION OF THE EXCHANGE YARD WILL BECOME CLEAR ONLY AFTER THE ALIGNMENT OF THE RAILWAY CONNECTIVITY TO SAGAR IS KNOWN.
148	<u>FEASIBILITY REPORT</u>	SECTION 4.2: 1. WHAT ARE THE TRAFFIC RESTRICTIONS WITHIN KOLKATA CITY ON MULTI-AXLE VESSELS, ESPECIALLY FOR CONTAINER MOVEMENT ON TRUCKS? 2. IN SECTION 4.2.5, THE ROAD EVACUATION CAPACITY IS ASSESSED AS 300,000 TEUS. WHAT IS THE BASIS OF THAT? HOW MUCH CITY TRAFFIC HAS BEEN ASSUMED?	1. CAN BE ASCERTAINED FROM THE STATE GOVERNMENT AND APPROPRIATE AUTHORITIES 2. PLEASE REFER TO THE FEASIBILITY REPORT
149	<u>FEASIBILITY REPORT</u>	SECTION 5.6: PLEASE CONFIRM WHETHER 1200 TEU FULLY LOADED WITH LADEN CONTAINERS CAN CALL AT DIAMOND HARBOUR AT ALL STATES OF TIDE?	QUERY IS NOT CLEAR IN ABSENCE OF DRAFT OF THE VESSEL
150	<u>FEASIBILITY REPORT</u>	SECTION 6.1.3: 1. DOES ALL THE LAND BELONG TO KOPT? 2. IF NOT, WILL KOPT TRANSFER THE TITLE DEEDS TO ITS NAME OR TAKE THE LAND ON A LONG TERM LEASE FROM VARIOUS PARTIES? 3. PLEASE CONFIRM THAT THE PROJECT SITE TO BE HANDED OVER TO THE CONCESSIONAIRE WILL BE FREE OF ENCUMBRANCES. 4. THERE IS NO MENTION OF LAND REQUIRED FOR THE LAST MILE RAILWAY CORRIDOR. PLEASE CONFIRM THAT KOPT WILL TAKE IN THEIR POSSESSION THE LAND REQUIRED FOR DEVELOPING THE RAILWAY CORRIDOR.	PLEASE REFER TO REPLY GIVEN AGAINST Q74(3)

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

151	<u>FEASIBILITY REPORT</u>	<p>SECTION 6.1.4:</p> <ol style="list-style-type: none"> <li>1. PLEASE ADVISE THE RATIONALE BEHIND 50% ALLOCATION TO RAIL IN DISTRIBUTION OF OVERALL TRAFFIC AT DIAMOND HARBOUR IN THE YEAR 2024-25. WHERE ALL THESE RAIL CONTAINERS ARE DESTINED TO?</li> <li>2. WHAT IS THE BASIS OF LIMITING THE ROAD EVACUATION TO 300,000 TEUs</li> <li>3. IN THE YEAR 2019-20, IF 600,000 TEUs HAVE TO BE EVACUATED BY IWT MOST OF THE BERTH WILL BE OCCUPIED BY BARGES AND THE CONTAINER TERMINAL OPERATOR WILL HAVE TO DEPEND OF BARGE OPERATORS TO EVACUATE THE BOXES. THIS WOULD MEAN THAT THE CAPACITY OF THE OVERALL TERMINAL WILL REDUCE. PLEASE CONFIRM IF KOPT WILL INVEST IN DEDICATED BARGES TO EVACUATE THIS VOLUME OF CARGO FROM DIAMOND HARBOUR.</li> </ol>	<ol style="list-style-type: none"> <li>1. THE RELEVANT SECTION OF THE FEASIBILITY REPORT MAY BE REFERRED TO</li> <li>2. SAME AS (1) ABOVE</li> <li>3. No</li> </ol>
152	<u>FEASIBILITY REPORT</u>	SECTION 6.2.6: PLEASE PROVIDE THE MODEL STUDY FOR BERTH ALIGNMENT	PLEASE REFER TO REPLY AGAINST Q15 ABOVE
153	<u>FEASIBILITY REPORT</u>	SECTION 6.2.7: PLEASE CONFIRM THAT NIGHT NAVIGATION WILL BE PROVIDED AND THERE ARE NO IMPEDIMENTS TO THE SAME THROUGHOUT THE YEAR.	ALREADY REPLIED TO
154	<u>FEASIBILITY REPORT</u>	<p>SECTION 6.3.1. CARGO BERTH:</p> <ol style="list-style-type: none"> <li>1. WHAT IS THE MINIMUM DISTANCE HAVE TO KEPT BETWEEN TWO SHIPS?</li> <li>2. WHAT IS THE DISTANCE BETWEEN BARGES AND THE FRONT END OF PIER?</li> <li>3. CAN BARGES BE HANDLED AT ALL STATES OF TIDE?</li> <li>4. CAN THE CHANNEL HANDLE 2000 TEU SHIPS WITH 1500 LADEN TEUs AND 500 EMPTIES?</li> </ol>	SINCE VESSELS WILL BE BERTHED BY THE AUTHORITY THE QUERY IS NOT RELEVANT
155	<u>FEASIBILITY REPORT</u>	<p>SECTION 6.4.1</p> <ol style="list-style-type: none"> <li>1. PLEASE SHARE THE SOIL INVESTIGATION DATA AROUND THE PROPOSED BERTHS.</li> <li>2. PLEASE ADVISE WHETHER DREDGED MATERIAL IS SUITABLE FOR FILLING/ GROUND IMPROVEMENT AND WOULD IT BE PROVIDED BY THE CONCESSIONING AUTHORITY TO THE CONCESSIONAIRE.</li> </ol>	<p>SOIL INVESTIGATION DATA CAN BE COLLECTED FROM NODAL OFFICER OF THE PROJECT</p> <p>DREDGING, IF REQUIRED WILL BE DONE BY</p>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

			THE AUTHORITY
156	<b><u>FEASIBILITY REPORT</u></b>	SECTION 6.4.9: PLEASE ADVISE WHETHER CONCESSIONING AUTHORITY IS RESPONSIBLE FOR RIVER TRAINING AND BANK PROTECTION.	NO, PLEASE REFER TO TABLE 11.4 OF THE FEASIBILITY REPORT. COST OF BANK PROTECTION HAS BEEN INCLUDED IN THE PROJECT COST AND WILL BE THE RESPONSIBILITY OF THE CONCESSIONAIRE
157	<b><u>FEASIBILITY REPORT</u></b>	SECTION 6.4.10: PLEASE CONFIRM WHETHER THE CONCESSIONING AUTHORITY SHALL PROVIDE NECESSARY NAVIGATIONAL AIDS AND 24 X 7 NAVIGABILITY.	REPLIED EARLIER
158	<b><u>FEASIBILITY REPORT</u></b>	SECTION 6.5: PLEASE CONFIRM WHETHER CONCESSIONING AUTHORITY WILL UNDERTAKE ROAD WORKS OF ABOUT 4KM INCLUDING JUNCTION IMPROVEMENT AROUND THE PROPOSED GATE AREA FOR PLANNED ENTRY AND EXIT TO/ FROM PROPOSED PORT.	PLEASE REFER TO CHAPTER 11.0 OF THE FEASIBILITY REPORT
159	<b><u>FEASIBILITY REPORT</u></b>	SECTION 8.1.2.5: PLEASE PROVIDE THE SOIL INVESTIGATION REPORT CONDUCTED BY JADHAVPUR UNIVERSITY IN JANUARY, 2009	SOIL INVESTIGATION DATA CAN BE COLLECTED FROM NODAL OFFICER OF THE PROJECT
160	<b><u>FEASIBILITY REPORT</u></b>	SECTION 9.2.1.1: PLEASE ADVISE WHETHER EIA FOR THE PROJECT HAS BEEN DONE. IF YES, PLEASE SHARE A COPY OF THE EIA.	PLEASE REFER TO REPLY GIVEN AGAINST Q15
161	<b><u>FEASIBILITY REPORT</u></b>	SECTION 9.2.2.11: PLEASE CONFIRM THAT THERE IS NO REHABILITATION AND RESETTLEMENT REQUIRED EVEN IN THE ADJOINING AREAS OF THE PROJECT SITE.	PLEASE REFER TO REPLY GIVEN AGAINST Q74
162	<b><u>FEASIBILITY REPORT</u></b>	SECTION 10: PLEASE CONFIRM IF THERE ARE ANY CASES OR PROCEEDINGS BEFORE ANY AUTHORITY WITH RESPECT TO THE PROJECT.	AS OF NOW THE AUTHORITY IS NOT AWARE OF ANY CASE AGAINST THE PROJECT

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

163	<u>FEASIBILITY REPORT</u>	EXCLUSIVITY: PROJECT OF SUCH A HUGE MAGNITUDE WARRANTS EXCLUSIVITY PROVISIONS FOR WHICH IS MISSING IN THE CONCESSION AGREEMENT. PLEASE CONFIRM THAT THIS PROJECT WILL HAVE EXCLUSIVITY FOR HANDLING CONTAINERS AND KOPT WILL NOT COMMISSION ANY OTHER PROJECT WITH A CONTAINER HANDLING FACILITY (AT SAGAR OR ANYWHERE ELSE) EITHER BY ITSELF OR THROUGH PPP.	KINDLY REFER TO THE TRAFFIC PROJECTION GIVEN IN TABLE 5.22 OF THE FEASIBILITY REPORT, IT CAN BE SEEN THAT EVEN WITHOUT OFFERING ANY EXCLUSIVITY TO THE PROJECT, ADEQUATE CARGO SUPPORT IS EXPECTED FOR ALL CONTAINER TERMINALS OF KDS, DH, HDC AND SAGAR.  IT HAS BEEN DECIDED BY THE KOPT BOARD THAT DH WOULD BE DEVELOPED WITHOUT ANY EXCLUSIVITY.
164	<u>RFP</u>	DCA DEFINITIONS, ACTUAL PROJECT COST: WE UNDERSTAND THAT THE ACTUAL PROJECT COST SHALL INCLUDE ALL COSTS INCURRED BY THE CONCESSIONAIRE RELATED TO THE DEVELOPMENT OF THE PROJECT INCLUDING COSTS OF ALL STUDIES, SURVEYS (IF ANY), FINANCING COSTS, ADDITIONAL COSTS DUE TO CHANGE OF SCOPE OR CHANGE OF LAW AND ANY OTHER EXPENDITURE INCURRED ON CAPACITY AUGMENTATION AFTER FINANCIAL CLOSURE ETC. REQUEST YOU TO PLEASE CONFIRM THE SAME	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
165	<u>DCA</u>	DCA DEFINITIONS, APPLICABLE LAW:  REQUEST YOU TO INCLUDE "POLICY(IES), GUIDELINE(S)" UNDER THE DEFINITION OF APPLICABLE LAW	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
166	<u>DCA</u>	DCA DEFINITIONS, BOOK VALUE: IT HAS BEEN MENTIONED THAT BOOK VALUE SHALL INCLUDE THE WRITTEN DOWN VALUE OF THE MOVEABLE ASSETS THAT THE CONCESSIONING AUTHORITY "AGREES" TO TAKE OVER. THIS MAY NOT BE ACCEPTABLE TO THE LENDERS AND THE CONCESSIONING AUTHORITY SHOULD TAKE OVER ALL ASSETS CREATED FOR THE PROJECT	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
167	<u>DCA</u>	DCA 2.7, ACCEPTANCE OF PORT ASSETS: REQUEST YOU TO PLEASE PROVIDE THE STATUS OF OWNERSHIP OF THE PROJECT SITE IT IS UNDERSTOOD THAT THE PROJECT SITE AND THE PORT ASSETS SHALL BE HANDED OVER TO THE CONCESSIONAIRE FREE OF ANY	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA

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DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

		<p>ENCUMBRANCES AND ANY ENCROACHMENTS INCLUDING EXISTING STRUCTURE, PIPELINES UTILITIES, EXISTING STRUCTURES ETC AND WITH THE RIGHT OF WAY TO THE SITE. THE CONCESSIONAIRE CANNOT BE HELD LIABLE NOR TAKE THE RESPONSIBILITY FOR ANY RESETTLEMENT OR REHABILITATION ISSUES OF ANY INHABITANTS AT THE PROJECT SITE AND PORT ASSETS. ANY DELAY IN HANDING OVER PHYSICAL POSSESSION OF THE PROJECT SITE AND PORT ASSETS BY THE CONCESSIONING AUTHORITY SHALL BE SUBJECT TO PROVISIONS OF CLAUSE 3.</p> <p>THEREFORE THE PROJECT SITE CANNOT BE ACCEPTED ON "AS IS WHERE IS" BASIS. REQUEST YOU TO PLEASE CONSIDER REVISION OF THIS CLAUSE</p>	
168	<u>DCA</u>	<p>DCA, 3.1 (A) (vii), CONDITIONS PRECEDENT (FURNISHING OF FINANCING PLAN): IT HAS BEEN MENTIONED THAT FINANCIAL CLOSE SHALL BE DEEMED TO HAVE BEEN ACHIEVED IF THE ONLY CONDITIONS PENDING FOR ACHIEVING OF FINANCIAL CLOSE ARE THOSE REQUIRED TO BE FULFILLED BY CONCESSIONING AUTHORITY. HOWEVER, IN THE EVENT THE CONDITIONS PRECEDENT TO BE SATISFIED BY CONCESSIONING AUTHORITY ARE PENDING, FINANCIAL CLOSE WITH THE PROSPECTIVE LENDERS MAY NOT BE POSSIBLE. THEREFORE, THE SATISFYING OF THE CONDITIONS PRECEDENT BY CONCESSIONING AUTHORITY IS NECESSARY FOR FINANCIAL CLOSE AND IT IS REQUESTED THAT THE ARTICLE MAY BE REVISED ACCORDINGLY</p>	<p>THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA</p>
169	<u>DCA</u>	<p>DCA, 3.2, CONDITIONS PRECEDENT (TIME FRAME FOR COMPLETION OF CONDITIONS PRECEDENT): THE TIME FRAME OF 180 DAYS FROM DATE OF AGREEMENT FOR COMPLIANCE OF CONDITIONS PRECEDENT IS INSUFFICIENT TO COMPLETE ALL THE CONDITIONS PRECEDENT SPECIFICALLY ACTIVITIES SUCH AS FINANCIAL CLOSURE. IT MAY BE APPRECIATED THAT THE PROJECT COST IS SIGNIFICANTLY HIGH AS COMPARED TO MOST OF THE PROJECTS AND HENCE SHALL REQUIRE MORE TIME IN TIE-UP OF THE ENTIRE DEBT AMOUNTS.</p> <p>IT IS THEREFORE REQUESTED THE TIME FRAME FOR COMPLETION OF THE CONDITIONS PRECEDENT MAY KINDLY BE INCREASED REASONABLY TO 270 DAYS</p>	<p>THE REQUEST HAS BEEN ACCDED TO. PLEASE REFER TO CORRIGENDUM NO. DH/RFQ-II DT 05.02.2014</p>

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170	<u>DCA</u>	<p>DCA, 3.1 (B) (i) CONDITIONS PRECEDENT (TO BE SATISFIED BY CONCESSIONING AUTHORITY: PLEASE PROVIDE A COPY OF THE CLEARANCES OBTAINED SO FAR BY THE AUTHORITY FOR THE PROJECT INCLUDING SITE / LAND CLEARANCE ETC AND A STATUS UPDATE ON THE LIST OF PERMITS AVAILABLE WITH THE AUTHORITY AS MENTIONED IN APPENDIX 8.</p> <p>REQUEST YOU TO PLEASE PROVIDE A COPY OF THE ENVIRONMENTAL CLEARANCE(S) TO ENABLE THE BIDDERS TO EVALUATE ADDITIONAL CLEARANCES TO BE ARRANGED BY THE CONCESSIONAIRE AND TO BE TAKE INTO CONSIDERATION ANY FINANCIAL IMPLICATIONS OF THE COVENANTS OF THE EXISTING CLEARANCES</p> <p>ALSO PLEASE PROVIDE A LIST OF BALANCE CLEARANCES TO BE OBTAINED BY THE CONCESSIONING AUTHORITY AND CONCESSIONAIRE FOR THE PROJECT.</p>	OUT OF THE FOUR DOCUMENTS MENTIONED IN APPENDIX 8, TWO I.E., TARIFF NOTIFICATION AND PORT LIMIT NOTIFICATION ARE AVAILABLE. PPPAC AND ENVIRONMENTAL CLEARANCE WILL BE HANDED OVER PRIOR TO THE TIME FRAME SPECIFIED IN CONDITION PRECEDENT.
171	<u>DCA</u>	<p>DCA, 3.1 (B) (ii) CONDITIONS PRECEDENT (TO BE SATISFIED BY CONCESSIONING AUTHORITY: REQUEST THAT THE CLAUSE BE AMENDED AS "HANDLING OVER PHYSICAL POSSESSION OF THE PROJECT SITE AND THE PORT'S ASSETS FOR THE PURPOSES OF THE PROJECT"</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
172	<u>DCA</u>	<p>DCA, 3.1 (B) (ii) CONDITIONS PRECEDENT (TO BE SATISFIED BY CONCESSIONING AUTHORITY: REQUEST YOU TO PLEASE PROVIDE THE STATUS OF OWNERSHIP OF THE PROJECT SITE</p> <p>PLEASE CONFIRM IF THE SITE SHALL BE HANDED OVER FREE OF ALL ENCUMBRANCES INCLUDING EXISTING STRUCTURE, PIPELINES UTILITIES, EXISTING STRUCTURES ETC AND WITH THE RIGHT OF WAY TO THE SITE.</p> <p>IT IS UNDERSTOOD THAT THE PROJECT SITE AND THE PORT ASSETS SHALL BE HANDED OVER TO THE CONCESSIONAIRE FREE OF ANY ENCUMBRANCES AND ANY ENCROACHMENTS. THE CONCESSIONAIRE SHALL NOT BE LIABLE FOR ANY RESETTLEMENT OR HABITATION OF ANY INHABITANT AT THE PROJECT SITE AND PORT ASSETS. ANY DELAY</p>	PLEASE REFER TO REPLY GIVEN AGAINST Q74

### DISCLAIMER

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		IN HANDING OVER PHYSICAL POSSESSION OF THE PROJECT SITE AND PORT ASSETS BY THE CONCESSIONING AUTHORITY SHALL BE SUBJECT TO PROVISIONS OF CLAUSE 3.4	
173	<u>DCA</u>	DCA, 3.1 (B) (ii) CONDITIONS PRECEDENT (TO BE SATISFIED BY CONCESSIONING AUTHORITY: REQUEST YOU TO PLEASE PROVIDE THE CURRENT STATUS OF THE SUPPORTING PROJECT INFRASTRUCTURE, SPECIFICALLY THE "NAVIGATIONAL CHANNEL LEADING TO DIAMOND HARBOUR PROJECT SITE. ALSO REQUEST YOU TO PLEASE AMEND THE DEFINITION OF SUPPORTING PROJECT INFRASTRUCTURE TO INCLUDE THE DREDGED DEPTH OR DRAFT (I.E. 9M) OF THE NAVIGATIONAL CHANNEL TO BE PROVIDED BY THE CONCESSIONING AUTHORITY	PLEASE REFER TO REPLY GIVEN AGAINST Q6
174	<u>DCA</u>	DCA, 3.6 CONDITIONS PRECEDENT (LIABILITY OF EITHER PARTY IN THE EVENT OF NON COMPLIANCE OF THE CONDITIONS PRECEDENT):  IN THE EVENT OF TERMINATION DUE TO DEFAULT OF EITHER PARTY, THE LIABILITY OF EITHER PARTY SHOULD BE AT PAR. HOWEVER, AS PER THE REFERRED IN THE EVENT IF FAILURE OF CONCESSIONAIRE TO COMPLY WITH CONDITIONS PRECEDENT, THE CONCESSIONAIRE IS LIABLE TO PAY LIQUIDATED DAMAGES PLUS INCUR FORFEITURE OF THE BID SECURITY . WHEREAS IN THE EVENT OF TERMINATION DUE TO FAILURE OF CONCESSIONING AUTHORITY TO COMPLY WITH CONDITIONS PRECEDENT, THE CONCESSIONING AUTHORITY IS LIABLE TO PAY ONLY LIQUIDATED DAMAGES	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
175	<u>DCA</u>	DCA, 6.3 CONSTRUCTION PHASE  IT IS REQUESTED THAT A TIME PERIOD OF AT LEAST 32 MONTHS BE PROVIDED FOR MILESTONE EVENT 1 AS THE SELECTION OF VENDORS/CONTRACTOR FOLLOWED BY CONSTRUCTION ACTIVITY, EQUIPMENT ASSEMBLY AND DELIVERY, INSTALLATION COMMISSIONING WOULD NOT BE POSSIBLE WITHIN 26 MONTHS	REQUEST CANNOT BE ACCEDDED TO

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176		<p><b>DCA, 6.8(A) CHANGE OF SCOPE</b></p> <p>IT HAS BEEN MENTIONED THAT THE CHANGE OF SCOPE SHALL NOT EXCEED A SUM CORRESPONDING TO 5% OF THE ESTIMATED PROJECT COSTS. HOWEVER, SUCH CHANGE IN SCOPE SHOULD ONLY BE EXECUTED IF IT CREATES ADDITIONAL FACILITY TO AUGMENT THE CAPACITY OF THE PROJECT OR INCREASE THE PERFORMANCE OF THE FACILITIES UNDER THE AGREEMENT AND IN MUTUAL UNDERSTANDING WITH THE CONCESSIONAIRE</p>	<p><b>THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA</b></p>
177	<u>DCA</u>	<p><b>DCA, 6.8(G) CHANGE OF SCOPE</b></p> <p>IN THE EVENT THAT THE ADDITIONAL WORKS DUE TO CHANGE IN SCOPE ARE EXECUTED BY ANOTHER PARTY APPOINTED BY THE CONCESSIONING AUTHORITY, PLEASE CLARIFY AS TO WHO SHALL HAVE THE OWNERSHIP OF SUCH ADDITIONALLY CREATED ASSETS AND WHO SHALL BE RESPONSIBLE FOR THE TIMELY COMPLETION, QUALITY ASSURANCE, PERFORMANCE AND MAINTENANCE OF SUCH ASSETS. IT IS REQUESTED TO INCLUDE A PROVISION FOR CONFIRMATION AND ACCEPTANCE OF THE CONCESSIONAIRE FOR THE ADDITIONAL ASSET CREATED BY THE AGENCY APPOINTED BY THE CONCESSIONING AUTHORITY IN THE OVERALL INTEREST OF THE PROJECT</p>	<p><b>THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA</b></p>
178	<u>DCA</u>	<p><b>DCA, 6.9 LIQUIDATED DAMAGES</b></p> <p>LIQUIDATED DAMAGES FOR NON-PERFORMANCE OF OBLIGATIONS BY THE CONCESSIONAIRE HAVE BEEN DEFINED. HOWEVER THE SAME DO NOT EXIST FOR THE CONCESSIONING AUTHORITY. IT IS REQUESTED TO INCORPORATE THE LIQUIDATED DAMAGES IN THE EVENT OF NON-PERFORMANCE OF OBLIGATIONS BY THE CONCESSIONING AUTHORITY ALSO.</p>	<p><b>PLEASE REFER TO ARTICLE 3.4 OF DCA, WHICH MENTIONS LIQUIDATED DAMAGES FOR THE CONCESSIONING AUTHORITY</b></p>
179	<u>DCA</u>	<p><b>DCA, 7.1 (A) (XIV) OBLIGATIONS OF CONCESSIONAIRE - BAILING OF CARGO AT TERMINAL</b></p> <p>REQUEST FOR DELETION OF THIS CLAUSE AS THE OBLIGATIONS OF THE CONCESSIONAIRE IN OPERATING THE PROJECT HAVE BEEN EXPLICITLY MENTIONED IN THE MODEL CONCESSION</p>	<p><b>REQUEST CANNOT BE ACCEDED TO</b></p>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		AGREEMENT AND ANY ADDITIONAL PROVISIONS OF THE MAJOR PORT TRUST ACT CANNOT BE APPLICABLE TO THE CONCESSIONAIRE	
180	<u>DCA</u>	DCA, 7.1 (c) (i) (b) OBLIGATION OF THE CONCESSIONING AUTHORITY - MARINE AND PORT SERVICES: IT IS MENTIONED THAT THE CONCESSIONING AUTHORITY SHALL MAINTAIN THE ENTRANCE CHANNEL AT ABOUT 9.0M. PLEASE CONFIRM THAT THE CAPITAL DREDGING FOR THE SAME SHALL ALSO BE UNDERTAKEN BY THE CONCESSIONING AUTHORITY	NO SEPARATE DREDGING IS ENVISAGED FOR THE PROJECT
181	<u>DCA</u>	DCA, 7.1 (c) (i) (d) OBLIGATION OF THE CONCESSIONING AUTHORITY - MARINE AND PORT SERVICES:  REQUEST YOU TO PLEASE CONFIRM THAT THE CONCESSIONING AUTHORITY SHALL BE RESPONSIBLE FOR ENSURING THE "DRAFT TO BE PROVIDED AND MAINTAINED AT LEVELS AGREED" I.E. NOT LESS THAN 9M	PLEASE REFER TO REPLY GIVEN AGAINST Q6
182	<u>DCA</u>	DCA, 8 TARIFF:  PLEASE CLARIFY IF THE GUIDELINES FOR DETERMINATION OF TARIFF FOR PROJECTS AT MAJOR PORTS, 2013 SHALL BE APPLICABLE TO THE PROJECT. THESE GUIDELINES CLEARLY STATE THAT "THE GUIDELINES WILL ALSO APPLY TO MAJOR PORT'S OWN PROJECTS TO BE COMMISSIONED AFTER THE ISSUE OF THESE GUIDELINES." AND "FOR THE CURRENT YEAR (2013-14), PROJECTS FOR WHICH RFP HAS NOT YET BEEN ISSUED, THE MAJOR PORT TRUSTS WOULD SUBMIT TO TAMP REFERENCE TARIFF PROPOSAL ALONG WITH PERFORMANCE STANDARDS BASED ON CLAUSE 2.2 ABOVE, WHICH WOULD BE NOTIFIED BY TAMP WITHIN 15 DAYS OF ITS RECEIPT"	THE GUIDELINES FOR DETERMINATION OF TARIFF FOR PROJECTS AT MAJOR PORTS, 2013 SHALL BE APPLICABLE TO THE PROJECT AND THE TARIFF NOTIFIED BY TAMP UNDER THESE GUIDELINES IS ALREADY SHARED WITH BIDDERS AS PART OF THIS RFP. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014
183	<u>DCA</u>	DCA, 9.1 LICENSE FEE:  THE PROJECT AREA CONSIDERED FOR COMPUTATION OF THE LICENSE FEE (TOTAL AREA TO	THE PROJECT AREA IS 36.956HA. REGARDING ADDITIONAL 15% FOR PLOT ABUTTING SECOND ROAD PLEASE REFER TO

DCA- DRAFT CONCESSION AGREEMENT; FEASIBILITY REPORT- TECHNICAL FEASIBILITY REPORT; TA-TRANSACTION ADVISER, M/s ERNST & YOUNG

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**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		BE ALLOTTED) HAS BEEN MENTIONED AS 36.956HA. HOWEVER, IN APPENDIX 1 AND 2 (PROJECT SITE AND PORT ASSETS) THE SAME AREA HAS BEEN MENTIONED AS 35.956HA. REQUEST YOU TO PLEASE CLARIFY THE TOTAL AREA TO BE CONSIDERED FOR THE PROJECT.  FURTHER, PLEASE CLARIFY THE REQUIREMENT OF ADDITIONAL 15% FOR THE PLOT SECOND ROAD AND THE TOTAL ALLOTTED AREA AND LICENSE FEE AMOUNT THEREOF	REPLY GIVEN TO Q2.
184	<u>DCA</u>	<b>DCA, 9.3 UTILITIES OF SERVICES:</b>  IT HAS BEEN MENTIONED THAT CONCESSIONING AUTHORITY SHALL CHARGE TWICE THE SCALE OF RATES AS RENT /ANY OTHER CHARGES FOR ANY PREMISES OR ADDITIONAL UTILITIES OR SERVICES MADE AVAILABLE TO THE CONCESSIONAIRE. IT IS SUGGESTED THAT THE CONCESSIONING AUTHORITY CHARGE THE AMOUNT AS MENTIONED IN THE SCALE OF RATES SINCE ALL ADDITIONAL PREMISES / UTILITIES SHALL BE UTILISED INTEREST OF THE PROJECT. FURTHER THE TARIFF CALCULATION IS ON THE BASIS OF 16% RETURN AND IN THE EVENT THE CONCESSIONING AUTHORITY CHARGES TWICE THE SCALE OF RATES, THE PROJECT VIABILITY MAY BE AFFECTED ADVERSELY.	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
185	<u>DCA</u>	<b>DCA, 9.3 UTILITIES OF SERVICES:</b>  REQUEST YOU TO PROVIDE THE RATE AT WHICH POWER IS CURRENTLY BEING PURCHASED/PROVIDED BY KOPT. FURTHER, REQUEST YOU TO PROVIDE THE NEAREST TAKE-OFF LOCATIONS FOR WATER SUPPLY, SEWAGE /DRAINAGE MAY KINDLY BE PROVIDED	PLEASE REFER TO REPLY GIVEN AGAINST Q10
186	<u>DCA</u>	<b>DCA, 10.1(A) OWNERSHIP OF ASSETS (LAND AND WATER AREA):</b>  PLEASE CLARIFY THE TERM "SUBJECT TO EXISTING RIGHTS OF WAY".	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

<b>187</b>	<b><u>DCA</u></b>	<p><b>DCA, 12.1 (c) (v) VALIDITY OF INSURANCE COVER:</b>  IT HAS BEEN MENTIONED THAT THE CONCESSIONING AUTHORITY MAY RECOVER THE COSTS INCURRED BY CONCESSIONING AUTHORITY TOWARDS PURCHASE AND MAINTENANCE OF THE INSURANCE FROM THE CONCESSIONAIRE FAILING WHICH THE CONCESSIONING AUTHORITY CAN EXERCISE "RIGHT OF SET OFF". REQUEST YOU TO PLEASE CLARIFY THE TERM "RIGHT TO SET OFF"</p>	<p><b>THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA</b></p>
<b>188</b>	<b><u>DCA</u></b>	<p><b>DCA, 12.1 (g) (ii) CONDITION SURVEY:</b>  IT HAS BEEN MENTIONED THAT THE CONCESSIONAIRE SHALL PROVIDE A BANK GUARANTEE "AT LEAST" 2 YEARS PRIOR TO THE EXPIRY IF THE CONCESSION PERIOD. IT IS REQUEST THAT A FIXED TIME PERIOD BE CONFIRMED FOR PROVIDING THE SAID BANK GUARANTEE, AS THE TERM "AT LEAST 2 YEARS" IS AMBIGUOUS. FURTHER PLEASE CLARIFY THE VALIDITY PERIOD OF SUCH BANK GUARANTEE</p>	<p><b>THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA</b></p>
<b>189</b>	<b><u>DCA</u></b>	<p><b>DCA, 12.2 OBLIGATIONS OF THE CONCESSIONING AUTHORITY:</b>  NO EXCLUSIVITY PERIOD HAS BEEN PROVIDED FOR THE PROJECT. IT IS IMPORTANT TO APPRECIATE THAT THE CONCESSIONAIRE WOULD BE INVESTING ALMOST Rs 2,000 CRORE, A SIGNIFICANT PORTION OF WHICH WOULD BE THROUGH PROJECT FINANCING BY BANKS AND FINANCIAL INSTITUTIONS. IN THE EVENT THE PROJECT HAS NO EXCLUSIVITY, THERE IS ALWAYS THE RISK OF HAVING A NEW COMPETING FACILITY (AT PROBABLY LOWER COSTS) OPERATING IN THE VICINITY AND THUS THE BANKABILITY OF THE PROJECT WILL BE VERY LOW.</p> <p>SPECIFICALLY IN THE INITIAL 15 YEARS OF OPERATIONS INVOLVING TRAFFIC BUILD-UP AND DEBT SERVICING, IT IS IMPORTANT THAT THE PROJECT HAS AN EXCLUSIVITY IN THE FORM OF A CONFIRMATION FROM THE CONCESSIONING AUTHORITY THAT NO NEW CONTAINER TERMINAL SHALL BE DEVELOPED AT THE PORT FOR A PERIOD OF AT LEAST 10 YEARS OR TILL SUCH TIME AS CARGO HANDLED AT THE PROJECT FACILITIES AND SERVICES REACHES A LEVEL OF 75% (SEVENTY FIVE PERCENT) OF PROJECT CAPACITY FOR 2 (TWO) CONSECUTIVE YEARS ("EXCLUSIVITY PERIOD")</p>	<p><b>PLEASE REFER TO REPLY GIVEN AGAINST Q163</b></p>

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190	<u>DCA</u>	<b>DCA, 12.2 OBLIGATIONS OF THE CONCESSIONING AUTHORITY:</b> IT IS SUGGESTED THAT ALL ADDITIONAL COST INCURRED DUE TO CHANGE IN LAW SHOULD BE REIMBURSED BY THE CONCESSIONING AUTHORITY AND NOT ONLY AMOUNTS ABOVE RS 123.00 CRORE IN ANY ACCOUNTING YEAR	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
191	<u>DCA</u>	<b>DCA, 14.3 POLITICAL EVENT:</b> PLEASE CLARIFY THE TIME PERIOD FOLLOWING WHICH AN EVENT SHALL BE CONSIDERED AS A "POLITICAL EVENT"	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
192	<u>DCA</u>	<b>DCA, 14.9 (B) EXTENSION OF TIME PERIOD:</b> IT MAY BE NOTED THAT THE EXTENDED TIME PERIOD CANNOT BE SAME AS THE PERIOD DURING WHICH THE RELATIVE PERFORMANCE WAS AFFECT. IT IS SUGGESTED THAT THE EXTENDED TIME PERIOD BE A REASONABLE TIME TO UNDERTAKE MITIGATION MEASURE OR TO CREATE FACILITIES SAME AS PRIOR TO FORCE MAJEURE EVENT	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
193	<u>DCA</u>	<b>DCA, 15.1 (A) (III) THE CONCESSIONAIRE EVENT OF DEFAULT:</b> IT IS REQUESTED THAT THE DELAY OF MORE THAN 180 DAYS BE CONSIDERED ONLY FROM THE DATE OF COMMERCIAL OPERATION AND NOT AS PER THE MILESTONE DATES SINCE THE MILESTONE TIME PERIOD ARE INADEQUATE FOR COMPLETION OF RESPECTIVE ACTIVITIES	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
194	<u>DCA</u>	<b>DCA, 15.8 CONCESSIONING AUTHORITY'S RIGHTS OF STEP-IN:</b> REQUEST YOU TO KINDLY CLARIFY IF THE CONCESSIONING AUTHORITY SHALL BE RESPONSIBLE FOR O&M OF THE PROJECT ALSO IN THE EVENT OF THE CONCESSIONING AUTHORITY TAKING POSSESSION AND CONTROL OF THE PROJECT	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA

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# DIAMOND HARBOUR CONTAINER TERMINAL PROJECT

## REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS

195	<u>DCA</u>	<p>DCA, APPENDIX 1 &amp; 2 PROJECT SITE AND PORT ASSETS:</p> <p>PLEASE PROVIDE THE FOLLOWING :</p> <p>i) TOPOGRAPHICAL SURVEY DRAWING (AUTOCAD FORMAT)</p> <p>ii) BATHYMETRY OF CONCERNED AREA (AUTOCAD FORMAT)</p> <p>iii) GEOTECHNICAL INVESTIGATION DATA – MARINE AND LAND</p> <p>ALSO PLEASE PROVIDE THE LENGTH OF TOTAL WATERFRONT BEING ALLOTTED TO THE CONCESSIONAIRE A PART OF THE PROJECT SITE. A SITE MAP SHOULD ALSO BE PROVIDED TO ENABLE THE BIDDERS TO ESTIMATED COST OF DEVELOPMENT ACCURATELY IN THE EVENT THE CONCESSIONAIRE REQUIRED ADDITIONAL LAND OR CHANGE IN THE ALIGNMENT, PLEASE CLARIFY IF THE CONCESSIONING AUTHORITY SHALL PERMIT THE SAME</p>	PLEASE REFER TO REPLIES GIVEN AGAINST Q15 & Q131
196	<u>DCA</u>	<p>DCA, APPENDIX 1 &amp; 3 PROJECT SITE AND PORT ASSETS:</p> <p>IT IS MENTIONED THAT THE ENTIRE PROJECT AREA AS PER TECHNICAL FEASIBILITY REPORT IS 35.956HA WHEREAS IN CLAUSE 9.1 (LICENSE FEE), THE TOTAL AREA TO BE ALLOTTED FOR THE PROJECT IS MENTIONED AS 36.956HA. REQUEST YOU TO PLEASE CLARIFY THE SAME.</p>	PLEASE REFER TO REPLY GIVEN AGAINST Q11
197	<u>DCA</u>	<p>DCA, APPENDIX 5 PROJECT SCHEDULE:</p> <p>IT IS REQUESTED THAT A TIME PERIOD OF AT LEAST 32 MONTHS BE PROVIDED FOR MILESTONE EVENT 1 AS THE SELECTION OF VENDORS/CONTRACTOR FOLLOWED BY CONSTRUCTION ACTIVITY, EQUIPMENT ASSEMBLY AND DELIVERY, INSTALLATION COMMISSIONING WOULD NOT BE POSSIBLE WITHIN 26 MONTHS</p>	REQUEST CANNOT BE ACCEDDED TO
198	<u>DCA</u>	<p>DCA, APPENDIX 8 PERMITS &amp; CLEARANCES:</p> <p>REQUEST YOU TO PROVIDE THE COPY OF CLEARANCES OBTAINED BY THE CONCESSIONING</p>	PLEASE REFER TO REPLY GIVEN AGAINST Q170

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		AUTHORITY INCLUDING ENVIRONMENTAL CLEARANCE, CRZ CLEARANCE ETC. FURTHER REQUEST YOU TO PROVIDE THE EIA REPORT FOR THE PROJECT OR THE APPROVAL NOTICE, IF ANY	
199	<u>DCA</u>	<p><b>DCA, APPENDIX 14 MINIMUM GUARRANTED CARGO:</b></p> <p>THE MINIMUM GUARANTEED CARGO HAS BEEN STIPULATED FROM 5 YEARS OF DATE OF AWARD OF THE CONCESSION. IT MAY BE NOTED THAT DEFINITION OF THE SCHEDULED PROJECT COMPLETION DATE AND AS PER APPENDIX 5 (PROJECT SCHEDULE), THE COMMERCIAL OPERATIONS SHALL COMMENCE NOT EARLIER THAN 4 YEARS AFTER DATE OF AWARD. IN SUCH A SCENARIO, IT WILL NOT BE POSSIBLE TO ACHIEVE 30% OF THE CAPACITY WITHIN 1 YEAR OF OPERATIONS - AS STIPULATED IN APPENDIX 14 (20% OF THE PROJECT CAPACITY 5 YEARS AFTER AWARD OF CONCESSION AND EVERY YEAR THEREAFTER). IT IS THEREFORE REQUESTED TO <i>REVISE THE TIMELINES OF MINIMUM GUARANTEED TRAFFIC FROM DATE OF AWARD TO DATE OF COMMENCEMENT OF COMMERCIAL OPERATIONS</i></p>	REQUEST CANNOT BE ACCEDED TO
200	<u>DCA</u>	<p><b>DCA, APPENDIX 15 PERFORMANCE STANDARDS (PERFORMANCE EVALUATION AND CALCULATIONS OF LIQUIDATED DAMAGES):</b></p> <p>NO PERFORMANCE STANDARD, PERFORMANCE EVALUATION AND CALCULATION OF LIQUIDATED DAMAGES FOR THE OBLIGATIONS OF THE CONCESSIONING AUTHORITY HAVE BEEN SPECIFIED. SIMILAR PENALTIES SHOULD BE FORMULATED AND THE CONCESSIONING AUTHORITY SHOULD BE LIABLE FOR PAYING SUCH PENALTIES/COMPENSATION TO THE CONCESSIONAIRE</p>	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA

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		FURTHER THE REASONS FOR DELAY IN THE TURN AROUND TIME AND GROSS BERTH OUTPUT CAN BE VARIED AND NOT ATTRIBUTABLE TO THE CONCESSIONAIRE. THEREFORE IT IS REQUESTED THAT THIS PROVISION BE ENTIRELY WAIVED	
201	<u>RFP</u>	SUBMISSION DATE:  IT IS REQUESTED THAT A TIME PERIOD OF AT LEAST 6 WEEKS FROM THE DATE OF ISSUE OF CLARIFICATIONS BY KOPT BE PROVIDED FOR SUBMISSION OF THE RFP	PLEASE REFER TO REPLY GIVEN AGAINST Q63
201	<u>RFP</u>	RFP, 1.2.4 Bid SECURITY SHOULD BE 1% OF EPC	PLEASE REFER TO REPLY GIVEN AGAINST Q1
202	<u>RFP</u>	RFP, 2.1.14 & 2.1.15 IT HAS BEEN MENTIONED THAT THERE IS A POTENTIAL CONFLICT OF INTEREST OR DISQUALIFICATION OF THE BIDDER IN THE EVENT THE BIDDER ENGAGES THE LEGAL, FINANCIAL OR TECHNICAL ADVISERS OF THE AUTHORITY. REQUEST YOU TO PLEASE CONFIRM THE NAMES OF THE LEGAL, FINANCIAL AND TECHNICAL ADVISERS ENGAGED BY THE AUTHORITY IN RELATION TO THE PROJECT	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA
203	<u>RFP</u>	RFP, 2.1.15 IT HAS BEEN MENTIONED THAT THE DISQUALIFICATION SHALL NOT APPLY IF AN ASSIGNMENT WITH AN ADVISER (ALSO ENGAGED BY THE AUTHORITY IN RELATION TO THE PROJECT) WAS EXPIRED OR TERMINATED <i>6 MONTHS PRIOR TO THE ISSUE OF THE RFQ</i> . SINCE OVER A YEAR HAS PASSED SINCE THE ISSUANCE OF THE RFQ, IT IS QUITE POSSIBLE THAT THE BIDDER MAY HAVE ENGAGED AN ADVISER THAT WAS LATER ENGAGED BY THE AUTHORITY FOR SERVICES RELATED TO THE PROJECT. DUE TO THIS LARGE GAP BETWEEN THE RFP AND RFQ, IT IS REQUEST THAT THE TIME SINCE WHEN THE DISQUALIFICATION IS NOT APPLICABLE SHOULD BE <i>6 MONTHS PRIOR TO THE DATE OF ISSUE OF RFP INSTEAD OF THE RFQ</i>	THIS IS AS PER MODEL CONCESSION AGREEMENT OF GOVERNMENT OF INDIA

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204	<u>RFP</u>	<p><b>RFP, 2.2 CHANGE IN CONSORTIUM</b></p> <p>PLEASE CLARIFY IF THE APPROVAL OF THE AUTHORITY IS REQUIRED IN CASE OF INCLUSION OF A NEW MEMBER IN THE CONSORTIUM EVEN THOUGH THERE IS NO CHANGE IN THE LEAD MEMBER NOR IS THERE ANY SUBSTITUTION OF THE EXISTING CONSORTIUM MEMBERS FURTHER, PLEASE CLARIFY IF THE SECURITY CLEARANCE OF THE NEW CONSORTIUM MEMBER WOULD BE CRITERIA FOR BID OPENING OR THE SECURITY CLEARANCE OF THE NEW CONSORTIUM MEMBER CAN BE CONSIDERED AFTER THE BID OPENING (IN THE EVENT SUCH A CONSORTIUM IS THE PREFERRED BIDDER)</p>	<p><b>APPROVAL WILL BE REQUIRED</b></p>
205	<u>RFP</u>	<p><b>RFP, 3.3 SECURITY CLEARANCE OF THE BIDDERS</b></p> <p>PLEASE PROVIDE AN UPDATE ON THE STATUS OF SECURITY CLEARANCE OF THE BIDDERS. IN CASE THE SECURITY CLEARANCE OF THE BIDDERS IS STILL PENDING AS ON THE DATE OF OPENING OF THE BIDS, PLEASE CLARIFY THE PROCEDURE FOR ACCEPTANCE AND OPENING THE BIDS IN SUCH A SCENARIO</p>	<p><b>SECURITY CLEARANCE OBTAINED IN RESPECT OF ALL THE BIDDERS</b></p>
206	<u>RFP</u>	<p><b>2.3.1 SHAREHOLDING OF THE CONSORTIUM</b> THE REFERRED CLAUSE 2.3.1 (i) STATES THAT THE SHAREHOLDING OF THE CONSORTIUM MEMBERS SHOULD NOT BE LESS THAN 26% UNTIL SECOND ANNIVERSARY OF THE DATE OF COMMERCIAL OPERATION OF THE PROJECT.</p> <p>HOWEVER, CLAUSE 11.2 OF THE DRAFT CONCESSION AGREEMENT STATES THAT THE CONSORTIUM MEMBERS NEED TO HOLD HAVE A SHAREHOLDING 51% FOR A PERIOD OF 3 YEARS FROM THE DATE OF COMMERCIAL OPERATIONS SIMILARLY PROVISION 2.3.1.(ii) HAS NOT BEEN MENTIONED IN THE DRAFT CONCESSION AGREEMENT REQUEST YOU TO PLEASE CLARIFY WHICH PROVISION FOR "SHAREHOLDING" OF THE</p>	<p><b>RFP HAS BEEN AMENDED.</b> PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014</p>

**DISCLAIMER**

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		CONSORTIUM SHALL PREVAIL IN CASE OF CONFLICT BETWEEN THE RFP, RFQ AND THE DRAFT CONCESSION AGREEMENT	
207	<u>RFP</u>	5.2 PRE-BID CONFERENCE: REQUEST YOU TO PLEASE CONFIRM THE TIME AND VENUE OF THE PRE-BID CONFERENCE	PRE-BID CONFERENCE HELD ON 08.01.2014 AT KOPT HEAD OFFICE
208	<u>RFP</u>	<p><b>APPENDIX – II FORMAT OF BG FOR BID SECURITY</b></p> <p>IT IS REQUESTED THAT THE FOLLOWING PARA BE INCLUDED AT THE END OF THE BANK GUARANTEE FORMAT SINCE THIS IS A MANDATORY REQUIREMENT STIPULATED BY THE BANKS FOR ISSUING THE BANK GUARANTEE</p> <p>"NOTWITHSTANDING ANYTHING CONTAINED HEREINABOVE:</p> <p>(i) OUR LIABILITY UNDER THIS GUARANTEE SHALL NOT EXCEED Rs. _____ (RUPEES _____ ONLY)</p> <p>(ii) THIS BANK GUARANTEE SHALL BE VALID UPTO _____</p> <p>(iii) WE SHALL BE LIABLE TO PAY AMOUNT OR ANY PART THEREOF UNDER THIS BANK GUARANTEE ONLY AND ONLY IF WE RECEIVE A WRITTEN CLAIM OR DEMAND ON OR BEFORE _____</p>	RFP HAS BEEN AMENDED. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014
209		<p><b>APPENDIX – II PARA – 1 FORMAT OF BG FOR BID SECURITY</b></p> <p>IN PARA (1) OF THE FORMAT FOR THE BID SECURITY IT HAS BEEN MENTIONED THAT "... DO HEREBY IN TERMS OF CLAUSE 2.1.7 READ WITH CLAUSE 2.1.8 OF THE RFP</p>	RFP HAS BEEN AMENDED. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		<b>DOCUMENT..."IT IS REQUESTED THAT THE ABOVE MENTIONED WORDS REGARDING REFERENCE TO THE RFP IN THE BID SECURITY MAY KINDLY BE DELETED AS THE BANKS ISSUING THE GUARANTEE ARE APPREHENSIVE OF REFERENCE OF ADDITIONAL DOCUMENTS FOR THE PURPOSE OF THE GUARANTEE</b>	
<b>210</b>		<b>BERTH CAPACITY</b>  <b>AS PER APPENDIX 4 (PROJECT REQUIREMENT), IT HAS BEEN OBSERVED THAT WITH 6 NOS OF RMQC CRANES, THE DESIRED THROUGHPUT OF 1.2 MILLION TEUs PER ANNUM CANNOT BE ACHIEVED AND SUCH BERTH WILL HAVE LESSER CAPACITY THAN MENTIONED. ALSO, THE WIDTH OF BERTH OF 35.5M APPEARS LESS AS THE MINIMUM SPACE NECESSARY TO KEEP HATCH COVERS IS ABOUT 15M AND FURTHER FOR 36M OUTREACH, RMGC SPAN OF 18M APPEARS IS ALSO LESS. IN VIEW OF ALL ABOVE, IT IS OBSERVED THE COST OF THE BERTH IS SIGNIFICANTLY UNDER ESTIMATED. IT IS REQUESTED THAT THE CONCESSIONAIRE SHOULD BE GRANTED THE FLEXIBILITY OF PLANNING THE TERMINAL AND YARD SYSTEM SO THAT PERFORMANCE STANDARD OF NOT LESS THAN THOSE MENTIONED IN APPENDIX 15 CAN BE ACHIEVED WHILE OPTIMISE CAPITAL AND OPERATING</b>	<b>ANY CHANGE IN THE SCOPE OF WORK OR PROJECT CONFIGURATION WILL REQUIRE FRESH APPROVAL FROM PPPAC HENCE CANNOT BE ACCEDED TO</b>
<b>211</b>		<b>YARD CAPACITY</b>  <b>IT IS OBSERVED THAT THE YARD AREA ASSIGNED FOR THE PROJECT IS VERY LIMITED AND 1.2 MILLION TEUs PER ANNUM CANNOT BE HANDLED IN THE GIVEN AREA AS COMPARED TO THE THROUGHPUT REQUIREMENT AND SHAPE OF THE PROJECT AREA. PLEASE CONFIRM IF ADDITIONAL AREA OR A DIFFERENT ALIGNMENT OF THE ARE CAN BE PROVIDED BY THE</b>	<b>PLEASE REFER TO THE FEASIBILITY REPORT FOR DETAILS</b>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		<b>AUTHORITY</b>	
212		<b>CONNECTIVITY</b>  IT IS MENTIONED IN THE FEASIBILITY REPORT THAT THE CURRENT ROADS CAN ACCOMMODATE ONLY 300,000 TEUS PER ANNUM. REQUEST YOU TO KINDLY CLARIFY THE MEASURES BEING TAKEN TO INCREASE IT TO ACCOMMODATE THE DESIRED TRAFFIC AND WHO WILL BE RESPONSIBLE FOR THE SAME.	PLEASE REFER TO REPLY GIVEN AGAINST Q148
213		<b>CONNECTIVITY</b>  REQUEST YOU TO PLEASE PROVIDE THE STATUS OF PRIVATE LAND IN THE PROJECT AREA AS THIS AREA IS NECESSARY TO CARRYOUT RAIL LOADING OPERATIONS AS MENTIONED IN THE FEASIBILITY REPORT	LAND ACQUISITION PROCESS IS ON.
214		<b>CONNECTIVITY</b>  IT IS MENTIONED IN THE FEASIBILITY STUDY THAT THE RAIL CONNECTIVITY WILL ONLY BE OPERATIONAL AFTER 10 YEARS I.E. 2023-24. TILL THAT TIME AREA OF ABOUT 2 HA ALLOCATED FOR THE RAIL SIDING WILL BE <b>UNUSABLE RIGHT</b> IN THE MIDDLE OF STACK YARD AREA.  REQUEST YOU TO PLEASE CLARIFY WHETHER THE CONCESSIONAIRE SHALL BE ALLOWED TO CHANGE BERTH STRUCTURAL DETAILS SUCH AS DIAMETER/SPACING OF PILES AND PLANNING OF YARD FOR E.G. LOCATION OF RAIL YARD ETC? ALSO, PLEASE PROVIDE THE STATUS OF RAIL SIDING AND YARD UPTO THE PROJECT SITE	PLEASE REFER TO REPLY GIVEN AGAINST Q13

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

215		<p><b>CONNECTIVITY</b></p> <p>REQUEST YOU TO PLEASE PROVIDE THE STATUS AND TIMELINES FOR IMPROVEMENT OF ROAD AND RAIL CONNECTIVITY FOR THE PROJECT</p>	<p>PLEASE REFER TO REPLY GIVEN AGAINST Q13</p>
216		<p><b>PROJECT COST</b></p> <p>IT IS MENTIONED IN THE RFP DOCUMENT THAT THE ESTIMATED PROJECT COST IS RS.17,585 MILLION WHEREAS THE COST ESTIMATES IN FEASIBILITY REPORT MENTIONS IT AS RS. 11,459.90 MILLION. REQUEST YOU TO PLEASE CLARIFY THE DIFFERENCE BETWEEN THE TWO COST ESTIMATES.</p> <p>FURTHER, IN OUR OPINION THE BERTH COST AND EQUIPMENT COST ARE UNDERESTIMATED. ALSO IT IS NOT CLEAR WHERE THE SHEET PILES WALL STRUCTURE IS USED WHEREAS A COST OF RS.1560 MILLION HAS BEEN TAKEN INTO CONSIDERATION WHILE CALCULATING THE COST OF MARINE FACILITY. REQUEST YOU TO PLEASE CLARIFY THE SAME.</p>	<p>FOR THE PURPOSE OF THIS PROJECT, PROJECT COST IS TO BE TAKEN AS 1758.5 CRORES</p>
217		<p><b>OTHER CONTAINER HANDLING FACILITIES AT THE PORT</b></p> <p>HDC AND KDC ALREADY HAVE CONTAINER HANDLING FACILITIES, FURTHER. KOPT HAS INVITED BIDS TO SUPPLY AND OPERATIONS OF CONTAINER HANDLING EQUIPMENTS AT ITS EXISTING TERMINALS. IT IS QUITE LIKELY THAT THE CONTAINERS FROM THE PROJECT ARE LIKELY TO BE BARGED TO THE HDC AND KDC TERMINALS AND ACCORDINGLY THE</p>	<p>SPECIAL PROVISION INCORPORATED IN THE DCA FOR BARGES TO AND FROM DIAMOND HARBOUR. PLEASE REFER TO ARTICLE 7.1(c)(i)(i)</p>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		<p>EFFICIENCY OF THE PROJECT MAY DEPEND SIGNIFICANTLY ON THE EFFICIENCY OF THE HDC AND KDC TERMINALS.</p> <p>IN THIS REGARD, IT IS REQUESTED THAT A STATUS UPDATE ON THE EXISTING CONTAINER HANDLING FACILITIES AT HDC AND KDC BE PROVIDED ALONG WITH THE MEASURES BEING UNDERTAKEN BY KOPT TO AUGMENT/IMPROVE THESE</p> <p>IT IS ALSO REQUESTED THAT PROVISIONS BE MADE IN OPERATING PROCEDURES AT THE EXISTING TERMINAL TO INCLUDE PRIORITY / PREFERENTIAL BERTH FOR CONTAINER COMING TO AND FROM THE PROJECT INORDER TO GIVE IMPETUS TO THE AGGREGATE CONTAINER VOLUMES FOR THE PORT</p>	
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**ADDITIONAL QUERIES BY ONE OF THE BIDDERS**

218		<p>DURING THE PRE-BID MEETING THE BIDDERS WERE INFORMED THAT THE PROJECT SITE WOULD BE HANDED OVER TO THE CONCESSIONAIRE, FREE FROM ANY ENCUMBRANCES. REQUEST YOU TO PLEASE CONFIRM THE SAME</p>	<p>PLEASE REFER TO REPLY GIVEN AGAINST Q74</p>
219		<p>WE UNDERSTAND THAT THE STATE LEVEL EIA APPROVALS HAVE BEEN OBTAINED AND AN APPLICATION FOR MOEF CLEARANCE HAS BEEN SUBMITTED. PLEASE CONFIRM REQUEST YOU TO PROVIDE US EXECUTIVE SUMMARY OF EIA REPORT AND FORM 1 THAT HAS BEEN SUBMITTED FOR MOEF APPROVAL. ALSO REQUEST YOU TO PROVIDE US A COPY OF THE WPCB APPROVAL</p>	<p>EIA CAN BE COLLECTED FROM THE NODAL OFFICER OF THE PROJECT</p>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

<b>220</b>		<b>REQUEST YOU TO PLEASE CONFIRM THAT THE COMPLETE SITE (ENTIRE LAND AND THE WATERFRONT LENGTH) WOULD BE HANDED OVER THE THE CONCESSIONAIRE FREE OF ANY ENCUMBRANCES, BEFORE THE DATE OF AWARD.</b>	<b>PLEASE REFER TO REPLY GIVEN AGAINST Q74</b>
<b>221</b>		<b>DURING THE PRE-BID MEETING, KOPT INFORMED THAT THE DRAFT AVAILABLE IN THE NAVIGATIONAL CHANNEL OVER THE PAST 1 YEAR HAS BEEN 6.6-7M AND NO CAPITAL DREDGING SHALL BE UNDERTAKEN BY KOPT. FURTHER, KOPT INFORMED THAT THE APPROXIMATE DEPTH AVAILABLE AT THE BERTH SHALL BE APPROX 20M. REQUEST YOU TO KINDLY CONFIRM THE ABOVE</b>  <b>FURTHER, IT IS IMPERATIVE THAT A MINIMUM DRAFT / DREGED DEPTH AT BERTH AND THE NAVIGATIONAL CHANNEL BE GUARANTEED BY THE CONCESSIONING AUTHORITY ON THE BASIS OF WHICH THE CONCESSIONAIRE CAN DETERMINE THE VESSEL SIZE/PARCEL SIZE/ TRAFFIC WHICH DIRECTLY IMPACT THE PROJECT FINANCIAL ANALYSIS</b>	<b>PLEASE REFER TO REPLY GIVEN AGAINST Q6</b>
<b>222</b>		<b>REQUEST YOU TO PLEASE CLARIFY IS THE CONCESSIONAIRE WOULD BE PERMITTED TO COMMENCE COMMERCIAL OPERATIONS ON COMPLETION OF MILESTONE EVENT 1 SINCE ONCE IT IS READY AND CERTIFIED COMPLETED BY THE INDEPENDENT ENGINEER, IT WOULD BE IMPRACTICAL TO LEAVE IT VACANT</b>  <b>HOWEVER, THE PAYMENT OF ROYALTY SHOULD ONLY BE APPLICABLE ON COMMENCEMENT OF COMMERCIAL OPERATIONAL OF THE COMPLETE PROJECT FACILITY INCLUDING MILESTONE 2 AS THE PROJECT VIABILITY IS DEPENDENT ONLY IF LARGER VOLUMES ARE HANDLED. REQUEST YOU TO PLEASE CLARIFY AND CONFIRM</b>	<b>PLEASE REFER TO CLAUSE 9.2(d) OF THE DRAFT CONCESSION AGREEMENT</b>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

223		<b>OBLIGATIONS OF CONCESSIONAIRE - BAILING OF CARGO AT TERMINAL</b>  REQUEST YOU ONCE AGAIN TO PLEASE OMIT THIS CLAUSE AS THE OBLIGATIONS OF THE CONCESSIONAIRE IN OPERATING THE PROJECT HAVE BEEN EXPLICITLY MENTIONED IN MCA	REQUEST CANNOT BE ACCEDED TO
224		REQUEST YOU TO PLEASE INCLUDE THE PROVISION OF THE MINIMUM DRAFT TO BE PROVIDED BY THE CONCESSIONING AUTHORITY AS "SHALL MAINTAIN THE ENTRANCE CHANNEL <u>AT NOT LESS</u> THAN 9.0M" REQUEST YOU TO PLEASE PROVIDE US THE ALIGNMENT OF THE NAVIGATIONAL CHANNEL AND ITS EXTENT.	REQUEST CANNOT BE ACCEDED TO  SINCE NAVIGATION IS A CONCESSIONING AUTHORITY'S RESPONSIBILITY, THIS IS NOT RELEVANT
225		THE UPFRONT PAYMENT OF LICENSE FEE FOR THE ENTIRE CONCESSION PERIOD WHICH BE A SIGNIFICANT LIABILITY ON THE PROJECT COST AS IT WOULD NEED TO BE CAPITALISED THE COMMENCEMENT OF COMMERCIAL OPERATIONS. THEREFORE, REQUEST YOU TO KINDLY MODIFY THE CLAUSE TO INCLUDE PROVISION FOR CHARGING LICENSE FEE ON ANNUAL BASIS, INSTEAD OF CHARGING ON UPFRONT PREMIUM BASIS.	REQUEST CANNOT BE ACCEDED TO
226		REQUEST YOU TO KINDLY PROVIDE US THE DETAILS OF THE CONTAINER TERMINAL PROJECTS ENVISAGED FOR CAPACITY AUGMENTATION / EXPANSION AND ANY NEW PROPOSED TERMINAL WITHIN THE KOLKATA PORT.	EXCEPTING DEVELOPMENT OF SAGAR PORT, KOPT DO NOT HAVE ANY OTHER CONTAINER TERMINAL PROJECTS ENVISAGED FOR CAPACITY AUGMENTATION / EXPANSION AND ANY NEW PROPOSED TERMINAL WITHIN THE KOLKATA PORT AT PRESENT  PLEASE REFER TO REPLY GIVEN AGAINST Q217

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		<b>FURTHER, IN THE ABSENCE OF RAIL CONNECTIVITY AND LIMITED ROAD CONNECTIVITY, THE MOST LIKELY AND PREFERRED ROUTE OF EVACUATION OF CONTAINERS WILL BE THROUGH BARGING. THEREFORE IT IS REQUESTED ONCE AGAIN THAT PREFERENTIAL BERTHING FOR VESSEL FROM THE PROJECT BE PROVIDED AT HDS AND KDS</b>	
<b>227</b>		<b>REQUEST YOU TO PLEASE CLARIFY IS THE CONCESSIONAIRE WOULD BE PERMITTED TO COMMENCE COMMERCIAL OPERATIONS ON COMPLETION OF MILESTONE EVENT 1 SINCE ONCE IT IS READY AND CERTIFIED COMPLETED BY THE INDEPENDENT ENGINEER, IT WOULD BE IMPRACTICAL TO LEAVE IT VACANT</b>  <b>HOWEVER, THE PAYMENT OF ROYALTY SHOULD ONLY BE APPLICABLE ON COMMENCEMENT OF COMMERCIAL OPERATIONAL OF THE COMPLETE PROJECT FACILITY INCLUDING MILESTONE 2 AS THE PROJECT VIABILITY IS DEPENDENT ONLY IF LARGER VOLUMES ARE HANDLED. REQUEST YOU TO PLEASE CLARIFY AND CONFIRM</b>	<b>QUERY SAME AS Q222</b>
<b>228</b>		<b>IT IS ONCE AGAIN REQUESTED THAT THE TIMELINES OF MINIMUM GUARANTEED TRAFFIC BE REVISED FROM DATE OF AWARD TO DATE OF COMMENCEMENT OF COMMERCIAL OPERATIONS</b>  <b>FURTHER, SINCE THE PROJECT COST IS VERY HIGH REQUIRED SIGNIFICANT CAPITAL INVESTMENT, THEREFORE, THE ROYALTY PAYMENT SHOULD COMMENCE FROM THE 5TH YEAR FROM COMMENCEMENT OF COMMERCIAL OPERATIONS</b>  <b>ADDITIONALLY, REQUEST YOU TO KINDLY WAIVE OFF THE EVENT OF DEFAULT OF NON-ACHIEVEMENT OF MGT AS IT IS NOT POSSIBLE TO ACHIEVEMENT THE MGT CONSIDERING</b>	<b>REQUEST CANNOT BE ACCDED TO</b>

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**DIAMOND HARBOUR CONTAINER TERMINAL PROJECT**

**REPLY TO PROJECT RELATED QUERIES RAISED BY VARIOUS BIDDERS**

		THE DATE FROM DATE OF AWARD AS MENTIONED ABOVE	
229		PERFORMANCE STANDARD FOR GROSS BERTH OUTPUT FOR BARGES IS REQUIRED TO BE PROVIDED. FOR LOADING AND UNLOADING CONTAINERS VIA BARGES, HMC OUTPUT IS REQUIRED TO BE 15 MOVES/HOUR	PERFORMANCE STANDARD IS AS PER TAMP NOTIFICATION. PLEASE REFER TO CORRIGENDUM No. DH/RFQ-II DT 05.02.2014
230		REQUEST YOU TO PLEASE PROVIDE THE TIMELINE FOR UPGRADATION OF THE ROAD CONNECTIVITY AND THE PROVISION OF RAIL CONNECTIVITY TO THE SITE.  PLEASE CLARIFY IF THE CONCESSIONING AUTHORITY WILL BE RESPONSIBLE FOR PROVIDING THE END ROAD CONNECTIVITY FROM NH117 TO THE PROJECT SITE	PLEASE REFER TO REPLY GIVEN AGAINST Q13 FOR RAIL CONNECTIVITY. FOR UPGRADATION OF ROAD CONNECTIVITY, APPROPRIATE AUTHORITY MAY BE CONTACTED  Yes
231		ADDITIONAL PROPOSAL REGARDING BERTH LENGTH, EQUIPMENT DEPLOYMENT AND MGT	ANY CHANGE IN THE SCOPE OF WORK OR PROJECT CONFIGURATION WILL REQUIRE FRESH APPROVAL FROM PPPAC HENCE CANNOT BE ACCEDED TO

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