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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.381

New Delhi

30 October 2019

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes the proposal received from the Seaport Shipping Pvt. Ltd. (SSPL) for notification of its Scale of Rates for Design, Supply, Installation, Testing, Commissioning and Maintenance of Mobile Rubber Tyred electrically operated hoppers for a period of 10 year on revenue share basis in the name of the Operator viz. SSPL as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

TARIFF AUTHORITY FOR MAJOR PORTS
Case No.TAMP/25/2019-VOCPT

Seaport Shipping Private Limited

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Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 10th day of October 2019)

This case relates to the proposal received from the Seaport Shipping Pvt. Ltd. (SSPL) for notification of its Scale of Rates (SOR) for Design, Supply, Installation, Testing, Commissioning and Maintenance of Mobile Rubber Tyred electrically operated hoppers for a period of 10 year on revenue share basis in the name of the Operator viz. SSPL.

2. This Authority vide its Order No.TAMP/60/2016-VOCPT dated 16 December 2016, approved the Cargo handling charges for evacuation of cargo through Mobile Rubber Tyred Electrically operated 120T Hopper at Berth Nos.III and IV under the Reference Tariff Guidelines of 2013 issued by the Ministry of Shipping (MOS).

3.1. The SSPL vide its letter dated 08 May 2019 has intimated that V. O. Chidambaranar Port Trust (VOCPT) granted License for the above said project for a period of 10 years under revenue sharing model as per the License Agreement. The commercial operation of the Hoppers commenced on 13 April 2018. Since then they have been paying the monthly revenue share to the port regularly.

3.2. The SSPL vide its letter dated 8 May 2019 has also submitted a proposal for notification of SOR in the name of SSPL for the rate to be charged from 01 April 2019. The main submissions made by SSPL regarding Cargo Handling Charges through Hopper are as under:

- (i). The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 01 January 2016 and 01 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 01 April of the following year.
- (ii). TAMP, as per the Clause 2.8 and 2.9 of the Tariff Policy, 2018, has approved the Indexation factor of 2.56% on the existing SOR for the year 2019-20 vide its letter No.TAMP/12/2019-Misc dated 29 March 2019.
- (iii). In accordance with the above referred letter, the SSPL has requested this Authority to approve the following indexed rate by applying 2.56% indexation factor on the Reference Tariff approved in December 2016 Order:

Commodity	Rate per MT (in ₹)	
	Foreign	Coastal
Dry Bulk Cargo	16.97	10.18

3.3. The SSPL has enclosed a copy of VOCPT letter dated 03 December 2018 to its proposal wherein the VOCPT has stated that M/s. SSPL has deployed 8 Nos. of Mobile rubber tyred electrically operated hoppers at VOCPT for handling dry bulk cargoes on license basis under revenue share model. The said letter of the VOCPT states that hoppers started operation from 13 April 2018 and performance is found to be satisfactory. However, the flex-flap system to control the dust emission is yet to be installed in 7 out of 8 hoppers.

3.4. Thus the SSPL has requested to issue necessary Notification for proposed SOR in its name, for the year 2019-20 commencing from 01 April 2019 for cargo handling charges for handling through hopper to enable SSPL to collect the same from the users from 01 April 2019.

4. The SSPL vide its email dated 14 May 2019 has also furnished the draft SOR and Performance Standards.

5.1. On perusing the proposed SOR, it was observed that the indexation factor applied by the SSPL was not correct. In view of the above, the SSPL was requested to furnish the corrected SOR alongwith following information immediately, vide our letter dated 12 June 2019.

- (i). Since the SSPL has commenced the commercial operation from 13 April 2018, correct annual indexation for the base year 2016 will be the indexation factor announced for the year 2017-18, which is 1.20%.
Applying the said indexation the rate shall be as follows:

Base Rate approved in Order No. TAMP/60/2016-VOCPT dated 16 December 2016 for Dry Bulk Cargo (Per MT) (In ₹)		Indexed Rate Applying 1.2% for the year 2017-18 and Nil for the year 2018-19 (From 1.4.2018 to 31.7.2018) (Per MT) (In ₹)		Applicable for the part of the year 2018-19
Foreign	Coastal	Foreign	Coastal	13.4.2018 (commencement of operation) to 31.7.2018
16.21	9.73	16.40	9.84	

- (ii). The annual indexation for the remaining part of the year 2018-19 i.e. from 01 August 2018 to 31 March 2019 and subsequent years shall be increased automatically in view of note prescribed in the SOR in this regard notified in the name of SSPL. Accordingly the rate shall be as follows (This is for information of SSPL as regards application of automatic indexation):

Year	Indexation factor announced by this Authority	Indexed Rate Per MT (In ₹)	
		Foreign	Coastal
2018-19 (From 01.08.2018 to 31.03.2019)	2.07%	16.73	10.04
2019-20	2.56%	17.15	10.29

- (iii). Indicate the tariff arrangement under which SSPL has collected tariff for the period from commencement of operation i.e. from 13 April 2018 to 31 March 2019.
- (iv). Furnish the reason for not submitting the completion certificate from Independent Engineer.
- (v). Furnish the SOR (at the base rate) alongwith conditionalities as approved in the tariff Order No.TAMP/60/2016-VOCPT.

5.2. In response, the SSPL vide letter dated 18 June 2019 has stated that under the License Agreement, no independent Engineer was appointed by the licensor, viz. VOCPT and hence Completion Certificate from Independent Engineer is not applicable for this project. As far as SOR along with conditionalities in concerned, SSPL has stated that the same is already submitted vide their email dated 14 May 2019.

6. A copy each of the proposal of SSPL dated 8 May 2019 and 18 June 2019 was forwarded to VOCPT for its comments, followed by reminders dated 28 June 2019 and 05 July 2019. The VOCPT has responded vide its email dated 17 July 2019. Submissions of VOCPT are summarised below:

The project commenced from 13 April 2018. As per the terms and conditions of license agreement independent Engineer is not required to issue Completion Certificate for the subject project. Committee comprising Port Officers inspected the work and submitted the report. Based on the report, completion certificate dated 03 December 2018 was issued (Copy enclosed). The firm has requested to grant time up to September 2019 for installing the flex flap system.

The proposal of SSPL, may be considered to notify the SOR for the subject project in the name of M/s. Seaport Shipping Pvt. Ltd.

7.1. Clause 2.9.1 of the Tariff Guidelines of 2008 for fixation of upfront tariff stipulates that the private operator shall approach this Authority for notification of SOR containing ceiling rates applicable to his operations before commencement of commercial operations as required under Section 48 of MPT Act and as per Clause 2.9.2. of tariff guidelines of 2008, the SOR to be framed by this Authority shall be in line with the tariff caps prescribed for the port and included in the bid document subject to indexation explained in Clause 2.8. Such SOR and statement of conditions shall be notified by this Authority in the Gazette of India as required by the Major Port Trusts Act, 1963.

7.2. While clause 2.9.1 of the Upfront Tariff Guidelines of 2008 explicitly stipulates that before commencement of commercial operation, the private operator shall approach this Authority for notification of the SOR as required under Section 48 of the Major Port Trusts Act, 1963, no such an explicit provision is stipulated in the Tariff Guidelines of 2013.

7.3. As per Section 48 read with Section 42(4) of the Major Port Trusts (MPT) Act, 1963, any person authorised by the Major Port Trusts to render services can levy tariff based on the SOR notified by this Authority. That being so, the BOT operators governed under the tariff guidelines 2013 who have been authorised by Major Port Trust under Section 42(3) of the MPT Act 1963, need to get the indexed SOR notified in their name well before the commencement of operations.

7.4. As per clause 4.2 of the Reference Tariff Guidelines of 2013, the Tariff Caps are to be indexed to inflation but only to an extent of 60% of the variation in WPI occurring between 1 January 2008 and 1 January of the relevant year, and the adjusted tariff will come into force from 1 April of the relevant year to 31 March of the following year.

7.5. As per note (i) under 3 General Notes in the reference tariff for transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No.III and IV at VOCPT approved by this Authority vide Order No.TAMP/60/2016-VOCPT dated 16 December 2016, tariff caps will be indexed to inflation to an extent of 60% of the variation in the WPI occurring between 1 January 2016 and 1 January of the relevant year.

8. The base year for the reference tariff and the corresponding annual escalation factors for the years 2014-15, 2015-16, 2016-17 and 2017-18 have been announced by this Authority and communicated to all the Major Port Trusts including VOCPT and the same are given below:

Year	Annual Indexation Factor (at 60% of WPI) announced by this Authority under 2013 Guidelines
2014-15	3.78%
2015-16	2.29%
2016-17	NIL
2017-18	1.20%
01.04.18 to 31.07.18	NIL
01.08.18 to 31.03.19	2.07%
2019-2020	2.56%

Thus in short, the SSPL has come up, after commencement of commercial operation on 13 April 2018 for notification of SOR in its name and the VOCPT has also requested to notify the SOR in the name of SSPL from the date of commencement of commercial operation i.e. 13 April 2018.

9.1. With reference to the totality of information collected during the processing of this case, the following position emerges:

- (i). This Authority has passed an Order No.TAMP/60/2016-VOCPT dated 16 December 2016 fixing reference tariff based on the proposal filed by the V. O.

Chidambaranar Port Trust (VOCPT) for transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No.III and IV in VOCPT. The said order was notified in the Gazette of India Extraordinary on 12 January 2017 vide Gazette No.13.

- (ii). The VOCPT has awarded the said project on license basis for a period of 10 years to M/s. Seaport Shipping Pvt. Ltd. (SSPL) and VOCPT has entered into a License Agreement with SSPL on 05 April 2017 for a period of 10 years.
- (iii). As per Section 48 read with Section 42(4) of the Major Port Trusts (MPT) Act, 1963, any person authorised by the MPTs to render services can levy tariff based on the Scale of Rates (SOR) notified by this Authority. That being so, the BOT operators governed under the tariff guidelines 2013 who have been authorised by Major Port Trust under Section 42(3) of the MPT Act 1963, need to get the indexed SOR notified in their name well before the commencement of operations. The SSPL has approached this Authority with a request to notify the SOR in its name, after commencement of commercial operation on 13 April 2018.
- (iv). As reported by the SSPL, the operator has commenced commercial operations with effect from 13 April 2018. A copy of the VOCPT letter dated 03 December 2018 forwarded by the SSPL states that the hoppers started the operations from 13 April 2018 and performance is found satisfactory. The VOCPT has stated that as per terms and conditions of license agreement, a Committee comprising of Port officials has inspected the 8 hoppers deployed by the SSPL and has found that the performance is satisfactory. The flex flap system to control the dust emission was expected to be installed by September 2019. The Port has confirmed that, licensee commenced the operation on 13 April 2018. The VOCPT has categorically stated that since the system is used for operation from 13 April 2018, the effective date of tariff to be notified by this Authority needs to be considered accordingly from 13 April 2018.
- (v). The SSPL in its proposal has sought notification of SOR from 1 April 2019. If reference tariff is notified from 1 April 2019, the tariff collected by SSPL from the date of commencement of operations i.e. from 13 April 2018 till 31 March 2019 will not have any approval of this Authority. As per the statute, the operator authorised by the port can collect the tariff for services rendered by him only upon notification of SOR by this Authority. The SSPL did not approach this Authority in April 2018 for notification of SOR in their name. It is now, in May 2019 SSPL has filed the proposal with draft SOR for notification of SOR in its name. However, the VOCPT has categorically stated that since the system is used for operation from 13 April 2018, the effective date of tariff to be considered accordingly i.e. 13 April 2018. That being so, this Authority is inclined to entertain the proposal of SSPL for notification of the SOR taking the reference tariff approved in the Order dated 16 December 2016 subject to the applicable WPI escalation announced by this Authority. In view of the position brought out above, and as recommended by the Licensor port, the indexed SOR notified by this Authority shall come into effect from the date the SSPL commenced the operations i.e. from 13 April 2018.
- (vi).
 - (a). With reference to the indexation of the reference tariff fixed vide Order dated 16 December 2016, it is noteworthy that the SSPL, while filing of its draft SOR, has applied the escalation factor of 2.56% which was announced by this Authority for the year 2019-20. In this regard, it is relevant to mention that para 11(xiii) of the reference tariff Order passed by this Authority vide Order No.TAMP/60/2016-VOCPT dated 16 December 2016 and the General Note no.(i) in the SOR approving the reference tariff, states that the tariff cap is to be indexed to inflation to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2016 and 1 January of the relevant year. The general note explicitly states the base year for WPI escalation has to be 1 January 2016.
 - (b). That being so, the applicable escalation factor to arrive at the indexed SOR as on 13 April 2018 is 1.2% for the year 2017-18; Nil for the period 1

April 2018 to 31 July 2018 and 2.07 for the period 1 August 2018 to 31 March 2019. Further, for ease of application and since the year 2019-20 has also commenced, the indexed rate applicable for the year 2019-20 applying the applicable indexation factor of 2.56% is also prescribed in the SOR notified in the name of the SSPL. For the subsequent years, the tariff shall be indexed automatically applying the indexation factor @ 60% of the WPI with the base year as of January 2019 to be announced by this Authority annually under the Reference Tariff Guidelines of 2013. The General note no.(i) to Schedule (2) proposed by SSPL as regards automatic escalation in the tariff prescribed in the general note approved in the Order dated 16 December 2016 is, therefore, slightly modified to that extent.

Accordingly, applying the correct indexation factor announced by this Authority, the indexed tariff notified in the name of SSPL is as follows:

Rate / MT (in ₹)					
From 13 April 2018 to 31 July 2018.		From 1 August 2018 to 31 March 2019.		For the year 2019-20	
Indexed Rate Applying 1.2% for the year 2017-18 and Nil for the year 2018-19 (From 1.4.2018 to 31.7.2018) (per MT in ₹)		Indexed Rate to be applicable from 1 August 2018 to 31 March 2019 applying 2.07% indexation factor		Indexed Rate Applying 2.56% indexation	
Foreign	Coastal	Foreign	Coastal	Foreign	Coastal
16.40	9.84	16.74	10.05	17.17	10.30

- (vii). All the other conditionalities governing the application of the rates as approved in the SOR of the Order dated 16 December 2016 are retained subject to the following:

This Authority, has passed an Order No.TAMP/53/2015-VOCPT dated 29 September 2015 based on the recommendations of Directorate General (DG) Shipping on the clarification sought by the VOCPT regarding levy of concessional charges for coastal cargo / container. The provisions approved in the said Order were further amended vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015. The said Order passed is for common adoption by all the Major Port Trusts. Subsequent to the said Order, the DG Shipping vide its letter no.SD-9CHART(309)/2016 dated 20 May 2016 has issued further clarification on the provision approved in the 26 November 2015 Order. This Authority has accordingly passed a clarificatory Order slightly amending the provision prescribed in para 9A(ii) and 10(ii) of the Order dated 26 November 2015. The amended provisions approved by this Authority in the said Order which are found relevant in the case of SSPL as regards cargo handling charges have been updated accordingly, in the SOR of SSPL as note no.(ii) in place of proposed note no.(ii) under General terms and conditions. Further, general conditionalities regarding applicability of Coastal Concession for ship to shore and shore to yard movement excluding few cargo items not entitled for Coastal Concession are prescribed. This is in line with the Coastal Concession Policy of the Government and is prescribed uniformly in the SOR of all Major Port Trusts and BOT Operators.

9.2. In the result, and for the reasons given above and based on collective application of mind, this Authority approves notification of the SOR and Performance Standards for the transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No.III and IV on license basis for a period of 10 years basis in the name of SSPL operating at VOCPT attached as **Annex-I** and **II** respectively.

9.3. The SOR notified for SSPL shall be deemed to have come into force from the date of commencement of operations by SSPL at VOCPT i.e. from 13 April 2018.

9.4. During the commercial operation at the terminal, within 15 days from the end of every quarter, the SSPL is directed to submit to this Authority through the VOCPT a report containing the physical performance during the preceding three months and at the end of each

year to submit a report containing physical and financial performance within two months of closure of the financial year.

9.5. As per clause 3.8.5 of the guidelines, if any question arises requiring clarifications or interpretation of the SOR and the statement of conditionalities, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

9.6. The Licensee is expected to perform at least at the performance norms brought out in the bid document/ License agreement.

9.7. The actual performance of the Licensee will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority may enquire into such allegation and forward its findings to the VOCPT. If any action is to be taken against the operator, the VOCPT shall initiate appropriate action in accordance with the provisions of the relevant License Agreement.

(T.S. Balasubramanian)
Member (Finance)

SEAPORT SHIPPING PRIVATE LIMITED

Scale of Rates for transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No. III and IV at V.O.Chidambaranar Port Trust.

CHAPTER 1 – DEFINITIONS & GENERAL TERMS & CONDITIONS

1.1. DEFINITIONS – GENERAL

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

- (i). **“Coastal Vessel”** shall mean any vessel exclusively employed in trading between any Terminal or place in India to any other Terminal or place in India having a valid coastal license issued by the Competent Authority / Director General of Shipping.
- (ii). **“Foreign-going Vessel”** shall mean any vessel other than a coastal vessel.
- (iii). **“Port”** shall mean V.O. Chidambaranar Port Trust.
- (iv). **“Shift”** shall mean shift of eight hours as applicable to Port employees.
- (v). **“Per day”** shall mean a calendar day or part thereof.
- (vi). **“TAMP”** shall mean the Tariff Authority for Major Ports constituted under Section 47A of the Major Port Trusts Act, 1963.
- (vii). **“Tonne”** shall mean one Metric Tonne or 1000 Kilograms.

1.2. General Terms & Conditions

- (i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, is the relevant factor to decide whether vessel is 'coastal' or 'foreign-going' for the purpose of levy of vessel related charges and the nature of cargo or its origin will not be of any relevance for this purpose.
- (ii). Criteria for levy of vessel related charges (VRC) at Concessional Coastal rate and foreign rate
 - (a) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
 - (b) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
 - (c) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.
- (iii). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate
 - (a) Foreign going Indian vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:-

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

*The Central Board of Excise & Customs - Circular No 15/2002-Cus dated 25th February 2002 allows carriage of coastal cargo from one Indian Port to another Indian Port in India, in Indian flag foreign going vessels without any Custom Conversion.

- (b). In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.
- (iv). (a). The cargo related charges for coastal cargo other than thermal coal should not exceed 60% of the normal cargo related charges.
- (b). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship shore transfer and transfer from/to quay to/from storage yard including wharfage.
- (c). Cargo from a foreign port which reaches an Indian Port "A" for subsequent transshipment to Indian Port "B" will be levied the concession charges relevant for its coastal voyage. In other words, cargo from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.
- (v). Interest on delayed payments/refunds.
 - (a). The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India)
 - (b). Likewise, the Terminal shall pay penal interest on delayed refunds. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India)
 - (c). The delay in refunds will be counted beyond 20 days from the date of completion of services or on production of the documents required from the users, whichever is later. (The Terminal must specify specific documents to be submitted for claiming refund).
 - (d). The delay in payments by the users will be counted beyond 10 days after the date of raising the bills by the Terminal. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and/or where payment of charges in advance is prescribed in this Scale of Rates.
- (vi). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
- (vii). No claims for refund shall be entertained unless the amount refundable is ₹100/- or more. Likewise, operator shall not raise any supplementary or under charge bills, if the amount due to operator is ₹100/- or less.
- (viii). (a). The rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The operator may, if he so desires, charge lower rates and/ or allow higher rebates and discounts.

- (b). The operator may also, if he so desires, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels. Provided that the operator should notify the public such lower rates and /or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/ or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (ix). User will not be required to pay charges for delays beyond a reasonable level attributable to operator.

2. CARGO HANDLING CHARGES FOR EVACUATION OF CARGO THROUGH MOBILE RUBBER TYRED ELECTRICALLY OPERATED 120T HOPPER AT BERTH NO. III and IV:

Rate per in MT (in ₹)

Sl. No.	Commodity	Rate from date of commencement of operations i.e. from 13 April 2018 to 31 July 2018		Rate from 01 August 2018 to 31 March 2019		Rate for the year 2019-20	
		Foreign	Coastal	Foreign	Coastal	Foreign	Coastal
1	Dry Bulk Cargo	16.40	9.84	16.74	10.05	17.17	10.30

Notes:-

Rate prescribed above is for transfer of cargo from ship to direct discharge to trucks through mobile rubber tyred electrically operated hoppers on Berth No. III and IV.

3. GENERAL NOTES:

- (i). The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2019 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year. The next automatic indexation in tariff will be from 01 April 2020.
- (ii). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

- (iii). The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as

incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.

- (iv). On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.
- (v). In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.
- (vi). After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.
- (vii). While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013
- (viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

SEAPORT SHIPPING PRIVATE LIMITED

PERFORMANCE STANDARDS

The Seaport Shipping Private Limited shall meet both the following Performance Standards:

- (a). The Minimum guaranteed availability is 90% per mobile rubber tyred electrically operated hopper per month,
- (b). The Licensee shall fill one truck of 40T capacity in twelve minutes using one hopper, if the trucks are available for unloading.

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