

**SHORT TERM OPERATION AGREEMENT FOR PART OF THE FIRST DEVELOPMENT PHASE OF SHAHID-BEHESHTI-
CHABAHR PORT, ISLAMIC REPUBLIC OF IRAN**

**RESPONSE TO PRE – BID QUERIES PURSUANT TO THE MEETING HELD ON 08 APRIL 2018 AT EMBASSY OF INDIA IN
TEHRAN**

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| 1. | Please attached A copy of the contract between the IPGL Port of Sistan and Baluchistan port authority to the operation agreement so that operator be aware of contracting parties' obligations such as maintenance and repair of equipment and facilities and insurance of the equipment. | The Contract between IPGL and Sistan & Baluchistan Port Authority (SBPA) will be shared only with the selected bidder. |
| 2. | Section 1-1-6- Area of the Terminal refers to workshops while the operator is not responsible for maintenance of terminal equipment and facilities so therefore there is no reason for the operator to keep the workshops and pay additional costs for it. | <ul style="list-style-type: none"> • Operator is not responsible for maintenance of equipment mentioned in Annexure -4 of Operation Agreement. • Area of Terminal referred in Section 1-1-6 will be provided to the Operator free of cost. • Operator is permitted to use part of this area as workshop for maintenance/refuelling of any Additional Equipment as defined in Article 7.17 mentioned in S.No 5 of Corrigendum cum Addendum – 2. • Operator is obliged to provide safety, security, insurances as defined in Article 7.11 mentioned in S.No 3 of Corrigendum cum Addendum – 2 and maintenance of the Area of Terminal referred in Section 1-1-6 of Agreement at its own cost. |
| 3. | In Clause 1-1-7 of the Terminal Services, the storage mentioned in the clause, while firstly in accordance with clause 6-1-1, no warehouse is delivered to the operator for the storage of non-containerized goods. Secondly, there is no payment to compensate the operator's costs for providing such services while the operator, has responsibilities And costs for the warehousing | <ul style="list-style-type: none"> • Covered warehouse space or any kind of covered storage is not part of the present scope of the Agreement. However, in case of any such requirement, the Operator shall submit a proposal. Authority will endeavour to facilitate same from the PMO. • For providing storage service for container / cargo in the Area of Terminal referred in Section 1-1-6 of Agreement, Authority shall pay |

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| | <p>of goods and the container. For example, in accordance with the Operation Agreement, if the goods and containers are subjected to the damage in warehouse it must be compensated by the operator. So it should not be expected The operator provide these services free of charge. Also, in this clause, the discharge and loading from / to the wagon, while due to a lack of rail in the port of Chabahar such service could not be provided by the operator.</p> | <p>to the Operator as per Article 5 mentioned in S.No. 2 of Corrigendum cum Addendum - 2.</p> |
| 4. | <p>Clause 1-1-13 Subsidiary Services, no revenue from subsidiary services considered for the Operator under agreement while for providing such service the operator shall incur related costs.</p> | <ul style="list-style-type: none"> • Please refer to S.No.2 of Corrigendum cum Addendum #2 for clarification. • For providing Subsidiary service in the Area of Terminal referred in Section 1-1-6, Authority shall pay to the Operator as per Article 5 mentioned in S.No. 2 of Corrigendum cum Addendum - 2. |
| 5. | <p>Clause 1-1-55 states that the Agreement is in both Farsi and English languages, both languages being equally authentic While the Persian version of the Agreement is not open to the bidder. It is noted in clause 1-1-48 of the Agreement that the Agreement will be signed between the IPGCFZ and the Operators Therefore, this agreement should be bilingual. It should be noted that this agreement is in Iran and between the two Iranian companies so the official language of the country shall be observed.</p> | <p>Please refer to S.No. 1 of Corrigendum cum Addendum - 4 for clarification.</p> |
| 6. | <p>It is likely that the procurement of RMQC and RTGs will take about 2 years so it is suggested that the agreement time stipulated in Article 3 be fixed for two years so that the operator can make appropriate plan to fulfill its obligations.</p> | <ul style="list-style-type: none"> • Duration of the agreement with Operator will be 18 months with provision for extension of 6 months, with same terms and conditions at Authority's discretion. Please refer to S.No. 1 of Corrigendum cum Addendum - 2 for clarification • It is to clarify to bidders that the requisite equipment mentioned in Annexure – 4 of Agreement will be made available to Selected Operator and there is no link between procurement of RMQC and RTGs with this Agreement. |

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| 7. | <p>In accordance with Clause 4-2, it is understood that the Ports and Maritime Organization issues bills for the provision of services and the operator receives money from customers on the basis of issued bills, and then the operator is obliged to transfer the received money in to the Authority account, which is the same as the IPGCFZ accordance with Clause 4-4 , and then, in accordance with Clauses 3 to 4, for the provision of services the Operator shall issue invoices to Authority to receive its fees in accordance with the operating fee in Article 5 of the Agreement. Certainly, undoubtedly, this process has many drawbacks and is likely to result in double taxation and social security payments, and ultimately increase the cost of the project. It is suggested that the process be reviewed.</p> | <ul style="list-style-type: none"> • It will be Operator's responsibility to raise invoice on behalf of Authority/SBPA/PMO as per the Approved Tariffs using the software(s) provided/approved (in case Operator intends to use its own software) by PMO/SBPA. • Operator will be responsible for collection of payment from the customers / users of the Terminal Area. • Customers / users of the Terminal Area will have to transfer the money directly in the Bank account specified by the Authority/SBPA/PMO. • For avoidance of doubt, Operator will not receive any payment on account of Terminal Service from the Customers. • All payments to the Operator will be in accordance with Article 5 of this Agreement. Refer S.No 2 of Corrigendum cum Addendum – 2 <p>Please refer to S.No. 2 and No.3 of Corrigendum cum Addendum - 4 for clarification on Clause 4-2 and 4-4</p> |
| 8. | <p>According to the provision of the agreement the Operator will have not revenue from subsidiary services nor warehousing services while operator will be incurred cost for providing such services to cover expensed the operator must also have share from Warehousing as well as all subsidiary services.</p> | <p>Please refer to S.No. 2 of Corrigendum cum Addendum - 2 for clarification.</p> |
| 9. | <p>It is recommended like the provision of PMO typical contracts, the operator receive his share from terminal services from customers when the bill of the services issued by the organization i.e. the shares of PMO, IPGCFZ and the Operators will be indicated on the issued bills by PMO then the customer will pay share of each parties directly. With this method the risk of double taxation and social security cost will be decreased.</p> | <ul style="list-style-type: none"> • It will be Operator's responsibility to raise invoice on behalf of Authority/SBPA/PMO as per the Approved Tariffs using the software(s) provided/approved (in case Operator intends to use its own software) by PMO/SBPA. • Operator will be responsible for collection of payment from the customers / users of the Terminal Area. |

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| | | <ul style="list-style-type: none"> • Customers / users of the Terminal Area will have to transfer the money directly in the Bank account specified by the Authority/SBPA/PMO. • For avoidance of doubt, Operator will not receive any payment on account of Terminal Service from the Customers / users of the Terminal Area. • All payments to the Operator will be in accordance with Article 5 of this Agreement. Refer S.No 2 of Corrigendum cum Addendum – 2 |
| 10. | In clause 5.2.2, the operator shall comply with the regulations of the special economic zone in respect of abandoned goods, while the provisions of the special economic zones are not applicable at the port of Shahid Beheshti and the mainland customs regulations are applicable. | At present SEZ regulation is not applicable, however in future if this has been extendable to Shahid Beheshti then Operator is obliged to adhere with applicable SEZ regulations. |
| 11 | In clauses 7, 2, 4, the operator shall establish and equip an office for the deployment of representatives of the Authority, the General Directorate Ports and Maritime of Sistan and Baluchestan Province, Customs, Bank with Meeting Room and Conference Room. Firstly, the size of this office and number of people who will present at office shall be determined. Secondly, the costs should be paid by the Authority, since the operator's income is not sufficient to cover such costs. | <p>The Operator will be entitled to receive fixed fee per month along with variable Operation Fee on per TEU basis, as per Agreement. The fixed fee covers all administrative, human resource, office establishment cost, insurance etc.</p> <p>Please refer Article 5 mentioned in S.No. 2 of Corrigendum cum Addendum - 2.</p> |
| 12 | Clause 7.3.1 indicate that Under this Agreement, Operator shall be responsible for maintenance, safety and proper delivery of goods and containers with due compliance of pertinent laws, the rules of special economic zones are not applicable in Shahid Beheshti port of Chabahar. | At present SEZ regulation is not applicable, however in future if this has been extendable to Shahid Beheshti then Operator is obliged to adhere with applicable SEZ regulations. |
| 13 | Clause 7.3.3 indicate that the operator is obliged to keep the goods in storage Warehouses and port areas, while there is no | <ul style="list-style-type: none"> • Covered warehouse space or any kind of covered storage is not part of the present scope of the Agreement. However, in case of any such |

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| | warehouses is available to the operator for keeping the goods. No fee will be paid for this service. Therefore, the subject of this matter should be clear if the responsibility for the warehousing of the goods and the container is with the operator. A decent warehouse shall be available and the operator shall receive shared from revenue of such services. | <p>requirement, the Operator shall submit a proposal. Authority will endeavour to facilitate same from the PMO.</p> <ul style="list-style-type: none"> For providing storage service for container / cargo in the Area of Terminal referred in Section 1-1-6 of Agreement, Authority shall pay to the Operator as per Article 5 mentioned in S.No. 2 of Corrigendum cum Addendum - 2. |
| 14 | Clause 7,3,4 indicate that the loading and unloading norms will be determent by Authority while it shall be determent mutually as well it is common in contract with PMO. | Loading and Unloading norms will be specified by SBPA/ PMO and Operator shall implement the specified norms. |
| 15 | In clauses 7, 3, 5 stipulated that the Operator undertakes to carry out all or part of the port services required for the cargo of the vessels which are due to be moved to the premises and/or warehouses under the operation of third parties based on tariff in port area while it is not clear how the incurred cost by operator will be compensated for these services. | <p>Operator shall undertake such activity at the discretion of Authority. For providing such service, Authority will pay to the Operator in accordance with Article 5 of this Agreement. Refer S.No 2 of Corrigendum cum Addendum – 2</p> <p>Please refer to S.no. 5 of Corrigendum cum Addendum - 4 for clarification on Clause 7-3-5</p> |
| 16 | Clause 7, 3, 7 refer to Integrated System for Cargo Owner Identification & Authentication, while We do not know about such software in ports of the country. Please describe the application Who is the owner and how can the operator use it. | <ul style="list-style-type: none"> We understand that there is no such integrated system for cargo is available in Iran. However, in future if such system is developed by PMO / SBPA then in that case Operator shall carry out the operation in accordance with the same. We envisage that cost of implementing such systems is not significant. In case if the cost of implementation is high, then Authority and Operator will mutually discuss regarding the cost, terms & condition and adoption of such technology. |
| 17 | The obligations set out in Clause 7, 4, 1 and 7, 4, 2, and 7, 5, 1 &7, 6, 1 and 7, 6, 2 and 7, 7, 1 and 7, 7, 2 As well as about IT in | Please refer to S.No. 2 of Corrigendum cum Addendum - 2 for clarification. |

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| | clause 7.8 and training under Clause 7, 9 and 8 , 6 and the certificates provided by the operator in accordance with clauses 7, 10, all make fixed costs for the operator and must be compensated by the authority because the operating fee is sufficient to compensate such costs. | |
| 18 | The word Authority in Clause 7, 7, 3 seems to be wrong and it's the Operator. | Please refer to S.no. 6 of Corrigendum cum Addendum - 4 for clarification on Clause 7-7-3 |
| 19 | In the last Clause of Clause 7, 11, 1 it is noted that Operator shall take adequate insurance coverage for the facilities like terminal area, container/multi-purpose berth, container/cargo yards (Approximately 10 Ha), administration and welfare building, workshops, installations public utility & facilities. This obligation is very costly for the operator, by the way It could be handled by the operator if the cost are fully paid by the Authority, and otherwise the operator will not be able to afford the cost of such insurance. | <p>The Operator will be entitled to receive fixed fee per month along with variable Operation Fee on per TEU basis, as per Agreement. The fixed fee covers all administrative, human resource, office establishment cost, insurance etc.</p> <p>Please refer to S.No.2 of Corrigendum cum Addendum - 2 for clarification.</p> |
| 20 | Clauses 7, 13, 1 are ambiguous. Please explain what is meant and what is the operator's intellectual property rights At the end of the contract, when and where and in exchange of what should be transmitted. | Intellectual Property Rights (IPR) means inter alia – all data related to traffic, cargo, , consignee related information, process flows, maintenance manual, MIS, reporting systems, layouts / drawings etc. shall be transferred to the Authority / PMO without any cost consideration by the Operator |
| 21 | When there is not maintenance and repairs of equipment and facilities on the obligation of the operator, It must be stated in the authority's obligations to carry out repairs and keep equipment ready and facilities. There is a similar ambiguity with the equipment insurance and it must be cleared the responsibility of the insurance | Please refer S.No. 3 & 4 of Corrigendum cum Addendum - 2, for clarification |
| 22 | In clauses 8 and 4, which are the Authority's obligations regarding the provision of water, electricity and telephone and IT, it is shall | <ul style="list-style-type: none"> As per clause 8.4 of Agreement, Authority shall facilitate through the SBPA / PMO for necessary water supply, electricity and telephone |

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| | <p>be stated also the obligation of provision of IT infrastructure will be by the authorities. In all PMO contracts, it is responsibility of PMO to provide such infrastructure. Definitely The operator will pay the cost of using them in accordance with the specified tariffs.</p> | <p>utilities at the rate which is made available to Authority by SBPA / PMO. The Operator shall make payment on actual consumption of such utilities as indicated by meters installed at the Terminal Area by the SBPA / PMO. The process for issuing payment related modalities will be discussed with selected bidder.</p> <ul style="list-style-type: none"> • Please refer to S.no.7 of Corrigendum cum Addendum - 4 for clarification on Clause 8-4 • However, as per Clause 7.8 of Agreement, it is Operator's responsibility to procure and use all relevant Software and hardware (computer, printers, Internet, servers, cables and other associated IT infrastructure) at its own cost. |
| 23 | <p>Clause 8.5 states that the Authority will charge for fire and extinguishing services from the operator. It should be noted that, first, fire insurance is in all contracts with the Ports and Maritime Organization will be undertake with The organization, and secondly, the ports organization should not charge someone for such services because This is a public service such as port guard services, and the ports organization charges these public services In some way from other sources.</p> | <ul style="list-style-type: none"> • In case of fire emergency, the fire-fighting services will be made available to Operator at a tariffs set by SBPA / PMO. Operator shall be responsible for payment of services at its own cost • Operator will responsible for safety & security, insurance of Terminal Area, workers / employees etc at its own cost • Operator shall take adequate insurance as mentioned in the S.No. 3 of Corrigendum and Addendum - 2. |
| 24 | <p>The Operator shall not be burden the obligation of marketing and shall not be subjected to the costs of marketing unless the authority itself pay for related costs, so the obligation stated in clause 9.4 and payment of related cost by operator for the holding of marketing events and so on is not logical and should be amended.</p> | <p>All marketing related efforts shall be carried out jointly by Organization, Authority and Operator. Cost incurred for carrying out such marketing activities will be taken care by Authority. However, it is expected that Operator shall fully cooperate and assist Authority in marketing of the terminal.</p> |
| 25 | <p>Clause 9.6 stipulates that the operator must issue invoices for the provided services, such as THC, warehousing and related</p> | <ul style="list-style-type: none"> • It will be Operator's responsibility to raise invoice on behalf of Authority/SBPA/PMO as per the Approved Tariffs using the |

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| | <p>services, and collect money from customers and deposit to the Authority account, while previously in cluse 4-2 states that the bills are issued by the Organization software and, in accordance with clause 4-3 , the operator issues an invoice for its services to the Authority to receive an operating fee from the Authority, therefore clause 9.6, which requires the operator to issue invoices to customers, is in conflict with the provisions of Clause 4-2 and 4-3 . It should be noted that, as indicated in clause 7 above, the review procedure should be substantiated in the process of billing and receipt of revenue from customers and payment of operator fees in order to avoid any problems.</p> | <p>software(s) provided/approved (in case Operator intends to use its own software) by PMO/SBPA.</p> <ul style="list-style-type: none"> • Operator will be responsible for collection of payment from the customers / users of the Terminal Area. • Customers / users of the Terminal Area will have to transfer the money directly in the Bank account specified by the Authority/SBPA/PMO. • For avoidance of doubt, Operator will not receive any payment on account of Terminal Service from the Customers. • All payments to the Operator will be in accordance with Article 5 of this Agreement. Refer S.no 2 of Corrigendum cum Addendum – 2 <p>Please refer to S.no.2 and no.3 of Corrigendum cum Addendum - 4 for clarification on Clause 4-2 and 4-4</p> |
| 26 | <p>In clause 12.1, the operator's right to object to the penalties has been subjected by the Authority, but it is unknown who will be reference for submission of objection and appeal, shall it be referred to the Authority itself? Which is not reasonable, since the object should be judged by whom subject the penalties himself; therefore, another reference should be declared, such as the Organization.</p> | <ul style="list-style-type: none"> • As per Clause 12.1, Operator has right to appeal and address all his relevant objections to Grievances Redressal Cell / department of India Ports Global Chabahar Free Zone. • Thereafter if the issue or grievances is still unresolved, then mediation of Organisation (PMO/SBPA) is acceptable |
| 27 | <p>In clause 14.2.1, Assignment of the entire Agreement or its subject to third party or parties in any form or Agreement including power of attorney, agency etc. in whole or in part without written consent of Authority, the operator shall have the right to assign a part of the work to third parties, such as a second-hand contractor. In the contracts of the organization, such option</p> | <p>Agreement Clause will prevail Operator is not allowed to outsource or assign a part of work to third party without informing Authority.</p> |

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| | is given to the operators, and this agreement must also include such condition without permission of Authority. | |
| 28 | <p>In clause 14.3, the Clauses 8.2 and 8.3 shall be stated beside clause 8.1 and 8.4, more over if authority does not fulfill his obligation, the operator has the right to terminate the contract. In addition, as already mentioned, if the organization wants to undertake The maintenance of equipment and facilities, it should be noted that it is obligations of the Authority to provide maintenance for the equipment.</p> <p>The maintenance obligations of the equipment and facilities are subject to the Authority's responsibility and if the Authority did not comply with this obligation, the operator has the right to terminate the contract or to carry out maintenance itself and receive a incurred cost with 30% overhead from the Authority</p> | <ul style="list-style-type: none"> • Please refer to S.no. 8 of Corrigendum cum Addendum - 4 for clarification on Clause 14-3 • Please refer to S.no. 6 of Corrigendum cum Addendum - 2 for clarification on Article 8.0 |
| 29 | It appears in clause 16.2 in the second line, the word or between the words unilaterally and terminated are extra and must be Removed. | Please refer to S.no. 9 of Corrigendum cum Addendum - 4 for clarification on Clause 16 – 1 (Typo mistake in query it is clause 16-1 and not clause 16-2) |
| 30 | Determining the damage in clause 16.3 should be assigned to independent third parties, not to the authority itself that is the beneficiary. | In case of unreasonable wear & tear, the views of PMO / SBPA's expert will be considered. |
| 31 | Given that in accordance with Article 968 of the Civil Code of Iran, the obligations of the parties in the contract are the subject of the place of occurrence of the contract, or agreement, then Article 19 should specify that the law governing the contract is the law of Iran, in accordance with Article 139 of the Constitution. | Agreement Clause will prevail. However, it is to clarify that the disputes will be referred to an agreed International Competent Authority by either parties. |

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| | <p>. Referral to international arbitration authorities to resolve disputes over public and governmental bodies requires, as appropriate, the permission of the Cabinet of Ministers and the Parliament, and it is recommended that the disputes be referred to the I.R of Iran courts.</p> | |
| 32 | <p>None of the operating agreement Annexes are provided so far, given that some of this annexes are obligations that shall be followed by operator so all these annexes shall be available before bidding.</p> | <p>Agreed, Relevant annexures will be shared with bidders.</p> <ul style="list-style-type: none"> • Annexure -1: This will be provided by Authority at the signing of Agreement. • Annexure -6: Applicable Tariff Booklet can be downloaded from PMO website • Annexure -11: To be provided by selected bidder in consultation with Authority |