

Bidding Document for

**Coal Lightering Service for Lakvijaya Power Plant, Sri Lanka from Jan-2025 to April 2027 (Season 2024-2025, Season 2025-2026 and Season 2026-2027)**

**Bid No.: LCC/24/L T/1**

FOR



**LAKVIJAYA POWER PLANT  
CEYLON ELECTRICITY BOARD**

BY

**LANKACOAL**  
COMPANY(PVT)LTD

**LANKA COAL COMPANY (PRIVATE) LIMITED**

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## Abbreviations

1	BDS	Bid Data Sheet
2	CEB	Ceylon Electricity Board
3	CCS	Ceylon Shipping Cooperation
4	DGMS	Director General of Merchant Shipping
5	DWT	Deadweight
6	ETA	Estimated Time of Arrival
7	GOSL	Government of Sri Lanka
8	H&M	Hull & Machinery
9	ICB	International Competitive Bidding (ICB).
10	IFB	Invitation for Bids
11	ISPS	International Ship and Port Facility Security
12	ITB	Instruction to Bidders
13	LCC	Lanka Coal Company (Pvt) Ltd.
14	LKR	Sri Lankan Rupees
15	LOA	Length Overall
16	LVPP	Lakvijaya Power Plant
17	MT	Metric Ton (1,000 kg)
18	NOR	Notice of Readiness
19	P&I Insurance	Protection & Indemnity Insurance
20	PCA-3	Public Contracts Act No.3 of 1988
21	PWWD	Per weather working day
22	SCAPC	Standing Cabinet Appointed Procurement Committee
23	SLN	Sri Lanka Navy
24	SLPA	Sri Lanka Ports Authority
25	SPB	Self-propelled open deck barges
26	SSHINC	Saturdays, Sundays and holidays included
27	STCW	Standards of Training, Certification, and Watch keeping
28	TEC	Technical Evaluation Committee
29	USD	United States Dollar

**Definitions:**

- "Lightering" shall collectively mean on-board stevedoring, lightering of coal from Mother Vessels at the anchorage of port of Puttalam to the Jetty of the Power Station and related Mother Vessel hold cleaning using pay-loaders;
- "MT (s)", "tonne" shall mean metric ton(s) of 1,000 kilograms;
- "US\$, "USD" shall refer to the lawful currency of the United States of America;
- A fraction of a cent in any calculation shall be rounded up to two decimal places, if such fraction is one half of a cent or more, and shall be rounded down if otherwise;
- A fraction of a ton in any calculation shall be rounded up to two decimal places if such fraction is one half of a ton or more, and shall be rounded down if otherwise;
- "Working day" shall mean a day (other than Saturday, Sunday or public holidays) on which banks are open for business in Sri Lanka;
- "Jetty" shall mean the Jetty of the Lakvijaya Power Station at Puttalam, Sri Lanka;
- "NOR" mean Notice of Readiness of the vessel at Puttalam Anchorage to unload coal or Colombo Out Port Limit (OPL) due to limited berthing facility at Puttalam Anchorage;
- "SPB" shall mean Self-Propelled Barge owned or chartered or provided by Lightering Service Provider having valid Registration Certificates, Classed under one of the Classes of the International Association of Classification Societies (IACS), other trading certificates and Protection and Indemnity Insurance Covers and having valid permission from the Director General of Merchant Shipping (hereinafter referred to as DGMS) of Sri Lanka for lightering operations at the said location or registered under the Sri Lanka Flag;
- "SPBs" shall mean Self-Propelled Barges (plural);
- "Mother vessel" shall mean bulk carrier ships having cranes.

Information copy - Not for Bidding

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## Section 1: Invitation for Bids (IFB)

1. The Chairman, Standing Cabinet Appointed Procurement Committee (SCAPC) invites you amongst others sealed Bids from eligible and qualified bidders for the procurement of services as mentioned in the instruction to bidders ITB 1 in accordance with specifications, terms and conditions stipulated herein.
2. The Intended Service Period is mentioned in ITB 1.
3. Bidding will be conducted through International Competitive Bidding (ICB).
4. Interested eligible bidders may obtain further information from the address as mentioned in the ITB 6.
5. A complete set of Bidding Documents may be purchased by interested bidders on the submission of a written application to the address stipulated in the ITB 8.1 upon payment of a non-refundable fee as stipulated in ITB 3.2.
6. Bids must be delivered to the address stipulated in the ITB 8.1 on or before the time stipulated in ITB 8.2. Late bids will be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend in person or on-line at the address stipulated in ITB 9.1.

Information copy - Not for bidding



**Section 2: Instructions to Bidders (ITB)**  
**Lightering of Coal**

**1. Scope of bid**

Chairman, Standing Cabinet Appointed Procurement Committee (SCAPC) invites interested parties to submit a Bid for the lightering of coal in Partnership with LCC for the 900 MW Lakvijaya Power Plant at Puttalam, Sri Lanka, by submitting Offers as follows. The name & identification number of the contract is stipulated in the BDS

- a. Agreeing to the lowest Base Lightering Rate in USD per MT basis from the discharging anchorage in the port of Puttalam to the Jetty of the LVPS including onboard stevedoring and other scope of work explained in the Instructions to Bidders and subject to terms and conditions stipulated in the draft Lightering Agreement attached to this Bidding Documents;

This invitation could be extended on behalf of the Employer and the Procurement Entity as stipulated in the BDS, if necessary.

Intended service period is stipulated in the BDS

**2. Bidding Procedure**

A Single Stage two envelop Bidding Procedure through the international competitive bidding (ICB) will be adopted for this procurement.

**3. Cost of Bidding**

- 3.1. The Bidder shall bear all costs associated with the preparation and submission of his Bid (Including cost of attending pre-bid meeting, site visit and any other costs associated with) and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process. By participating in the bidding, each Bidder agrees and acknowledges that in no event shall it be entitled to make a claim of any kind against LCC or LCC's officers, employees, or consultants arising out of, relating to, or in any way connected with the Bidder's bid or LCC's consideration thereof.
- 3.2. A complete set of Bidding Documents may be purchased by interested bidders on the submission of a written application to the address stipulated in the ITB 8.1 upon payment of a non-refundable fee as stipulated in the BDS.

**4. Site Visit & Pre-bid meeting**

- 4.1. The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of required Services and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the Services.
- 4.2. The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for in the BDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. The Bidder is requested to submit any questions in writing, to reach the Employer not later than 1 week before the meeting.
- 4.3. The costs of visiting the Site and attending to the pre-bid meeting shall be at the Bidder's own expense.

## **5. The Bidding Document**

### **5.1. Content of Bidding Document**

The bidding document comprises the documents listed below:

Section 1:	Invitation for Bid
Section 2:	Instructions to Bidders
Section 3:	Bid Data Sheet
Section 4:	Employer's Requirements
Section 5:	Bidding Forms
Section 6:	Conditions of the Contract
Section 7:	Agreement

The Bidder is expected to examine all instructions, forms, terms, specifications and other information in the Bid Documents. For ease of reference, a specimen Form of a Bid Security can be found attached to these instructions. Failure to furnish all information required by the Bid Documents or submission of a Bid not substantially responsive to the Bid Documents will be at the Bidder's risk and may result in rejection of its Bid.

### **5.2. Amendment of Bidding Document**

At any time prior to the deadline for submission of Bids, the Employer may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend the Bid Documents by issuing an Addendum. Notice of any amendments will be made available in writing and electronically by email or telefax to all prospective Bidders who have purchased the Bid Documents and will be binding on them. Bidders are required to immediately acknowledge receipt in writing or electronically by email and using the Addenda Receipt provided in Annex 6 for any such amendment with the Bid. It will be assumed that the information contained therein will have been taken into account by the Bidder in its Bid.

## **6. Clarification of Bidding Documents**

A prospective Bidder requiring any clarification of the Bid Documents may notify the Employer in writing or electronically by email or telefax at the Employer's address indicated in the BDS. LCC will respond in writing to any request for clarification of the Bid Documents which is received not later date and time stipulated in the BDS.

Written copies of the Employer's response (including an explanation of the query but without identifying its source) will be sent to all prospective Bidders who have purchased the Bidding Documents up to the time of clarification by Employer.

## **7. Preparation of Bids**

### **7.1. Language of Bid**

The Bid prepared by the Bidder and all correspondence and documents related to the Bid exchanged by the Bidder and LCC, shall be written in the English language, provided that any printed literature furnished by the Bidder may be written in another language so long as accompanied by an English translation. For purposes of interpretation of the Bid, the English translation shall govern. Any

document submitted in another language without accompanying English translation shall not be considered for the evaluation of the bid.

## 7.2. Confidentiality of Bidding

The prices in the Bidder's Bid must be determined independently, without consultation, communication, or agreement with any other Bidder or potential Bidders.

The prices that have been quoted in the Bidder's Bid must not and will not knowingly be disclosed by the Bidder directly, or indirectly, to any other Bidder or potential Bidder prior to the time Bids are due. Bidder warrants that no attempt has been made, directly or indirectly, to induce any other persons or firms to submit or not to submit a Bid for the purpose of restricting competition.

The Bidder shall not disclose the Bid Documents to any third party who is not directly related with the preparation of the Bid proposal.

## 7.3. Method of Receiving Bids

Sealed Bids will be received by courier or by hand.

## 7.4. Documents to be submitted by Bidders

7.4.1. The Bidder shall submit the **Original Bid** under two separately sealed envelopes as follows:

- (a) The first envelope shall be clearly marked "ENVELOPE 1 – QUALIFICATION AND EXPERIENCE INFORMATION"; (Technical Proposal) and
- (b) The second envelope shall be clearly marked "ENVELOPE 2 – "FINANCIAL BID" and warning "DO NOT OPEN, EXCEPT IN THE PRESENCE OF THE BIDDERS".

7.4.2. The Envelope 1, marked as "Original of QUALIFICATION AND EXPERIENCE INFORMATION" (Technical Proposal) shall include the originals of the following:

- (i) Letter of Bid duly completed and signed by the Bidder (Annex 1)
- (ii) Bid Security (specimen Form is attached as Annex 2)
- (iii) Power of Attorney (Annex 4 specimen Form attached)
- (iv) Forms 1 to 9 duly filled and signed with necessary supporting documents. In the case of joint venture, separate forms shall be submitted by each partner.
- (v) Addenda Receipt, if any (Annex 6 attached) duly filled and signed by the Bidder
- (vi) Draft Lightering Agreement
- (vii) Bid Data Sheet (BDS)
- (viii) PCA 3 Form, if applicable.  
Please note that PCA-3 Form is a prescribed Form under the Public Contracts Act No.3 of 1987, which specifies the persons required to register with the Registrar of Public Contracts.
- (ix) If the Bidder is a joint venture, joint venture partnership/shareholding agreement.
- (x) Other information listed in ITB 9.3.1; and
- (xi) Any other information, bidder may wish to include

7.4.3. The Envelope 2, marked as "ORIGINAL OF FINANCIAL BID" shall include the originals of the following:

- (i) Price Schedule (Annex 5)

- 7.4.4. The two covers shall then be sealed in an outer Envelope marked as Original. All inner and outer envelopes/covers shall:
- (a) be addressed to the Employer at the address provided in the BDS;
  - (b) bear the name and identification number of the Contract as defined in BDS
- 7.4.5. The bidder shall prepare two copies of original bids as described in above 7.4.1 to 7.4.4 and shall submit in addition to the original bid in separate envelopes marked as copy 1 and copy 2.

## 7.5. Base Lightering Rate

The Base Lightering Rate to be offered in this bid shall be all inclusive rate. It shall include, but not limited to, followings;

- Net Lightering rate
- Stevedoring rate
- Expenses in providing and maintaining payloaders, Excavators, etc.
- Mobilization & Demobilization cost
- Sheltering, if applicable, of barges during the off season
- Personnel cost of Lightering Service Provider's personnel (Accommodation, Food, etc.)
- Any applicable personnel taxes in Sri Lanka & Lightering Service Provider's country
- Expenses in compiling with Custom formalities, Immigration and Port health
- Expenses in maintaining sufficient Mooring ropes and barge fenders
- Expenses in complying with statutory requirements of GOSL and CEB Lakvijaya Power Plant (Security, Safety, ect.)
- Expenses in complying with quarantine requirements due to any Pandemic situation
- All port charges for the SPBs.

## 7.6. Bid Currency

The currencies of the Bid and payment shall be United States Dollar (USD). Bidder's Base Lightering Rate shall be quoted in U.S. Dollar (USD).

For bid evaluation, documents provide in other currencies by the bidders will be converted to USD using middle exchange rate published by the Central Bank of Sri Lanka, on the date 28 Days prior to deadline for submission of the Bids. If exchange rates are not published on the date, the first prior date where the exchange rates are published is taken into account.

## 7.7. Bid Security

All Bids must be accompanied by a Bid Security in the amount and currency and validity as specified in the BDS. The Bid Security, in the Form provided in Annex 2, shall be a Bank Guarantee issued by;

- A Bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka, or
- A Bank in another country, but the security "confirmed" by a Bank operating in Sri Lanka approved by the Central Bank of Sri Lanka.

Any Bid not secured as aforesaid shall be rejected as non-responsive.

Unsuccessful Bidder's Bid Security will be discharged/returned as promptly as possible following provision of Performance Security by the successful Bidder, but not later than 30 days after the expiration of the period of Bid Validity prescribed by LCC, pursuant to Clause 7.8.

The successful Bidder's Bid Security will be discharged upon the Bidder's signing the Lightering Agreement, pursuant to Clause 10.2.

The Bid Security may be forfeited:

- (a) If a Bidder:
  - i) Withdraws its Bid during the period of Bid Validity specified in Clause 7.8; or
  - ii) Refuses to accept any arithmetical correction necessary in the Bids; or
- (b) In case of a successful Bidder, if the Bidder fails:
  - (i) To sign the Contract in accordance with Clause 10.2; or
  - (ii) To furnish Performance Security in accordance with Clause 10.3.

In the event of joint venture, the bid security of a joint venture shall be in the name of the joint venture that submits the bid.

### **7.8. Validity of Bids**

Bids shall remain valid for a period as specified in BDS. A Bid valid for a shorter period shall be rejected by LCC as non-responsive.

In exceptional circumstances, LCC may solicit Bidder's consent to an extension of the period of validity of their Bids. The request and responses thereto shall be made in writing or by email or telefax. If a Bidder accepts to prolong the period of validity, the Bid Security shall also be extended accordingly. A Bidder may refuse the request without forfeiting its Bid Security. Any Bidder granting the request will not be required nor permitted to modify its Bid.

### **7.9. Format and Signing of Bid**

The Bidder shall prepare one original and two copies of the Bid, clearly marking each one as "Original", "Copy No. 1", "Copy No. 2", as appropriate. The Original and the copies of the Bid, each consisting of the documents listed in Clause 7.4 above, shall be typed written or otherwise reproduced in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract. The latter authorization shall be indicated by written Power-of-Authority accompanying the Bid and submitted as Annex 4 to the Bid. All pages of the Bid shall be initialed by the person or persons signing the Bid.

The Bid shall not contain any interlineations, erasures or overwriting except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

## **8. Submission of Bids**

### **8.1. Submission, Sealing and Marking of Bids**

Sealed Bids addressed as follows shall be submitted by hand or sent by express courier to

The Chairman, Lanka Coal Company (Private) Limited,  
On behalf of Standing Cabinet Appointed Procurement Committee (SCAPC),  
51/3 Suranimala place, Off-dutugemunu street,  
Dehiwala, Sri Lanka.

**8.2. Deadline for Submission of Bids**

Bids shall be received up to 14:00 hrs Sri Lanka Standard Time on the date mentioned in the BDS.

SCAPC/LCC may at its discretion extend this deadline for submission of Bids by amending the Bid Documents in accordance with Clause 6.0, in which case all rights and obligations of LCC and Bidders previously subject to deadline will thereafter be subject to the deadline as extended.

**8.3. Late Bids**

Any Bid received after the deadline for submission of Bids will be rejected and returned unopened to the bidder.

**9. Bid Opening and Evaluation**

**9.1. Opening of Bids**

9.1.1. The Employer will open the envelope marked, 'Envelope 1 – Qualification and Experience Information' (Technical Proposal), in the presence of Bidders' designated representatives who choose to attend, at the time, date, and location stipulated in the BDS. The Bidders' representatives who are present shall confirm their attendance by signing the attendance sheet.

9.1.2. The Bidders' names, the presence (or absence) of Bid security, the presence (or absence) of the Financial Bid and any such other details as the Employer may consider appropriate, will be announced by the Employer at the opening.

9.1.3. The envelopes marked 'Envelope 2 – Financial Bid' will be opened after the completing the evaluation of envelope marked 'Envelope 1 – Qualification and Experience Information (Technical Proposal)'

**9.2. Clarification of Bids**

To assist in the examination, evaluation and comparison of Bids the LCC may, at its discretion and at any time, ask the Bidder for a clarification of its Bid.

The request for clarification and the response shall be in writing and no change in the Lightering rate or substance of the Bid shall be sought, offered or permitted.

**9.3. Qualification and Experience of the Bidder**

All bidders shall provide in Section 5: Bidding Forms and necessary supporting documents with respect to under mentioned qualifications & Experience criteria.

9.3.1. The following factors will be considered to judge the eligibility of the Bidders;

A	Preliminary Eligibility and qualifications
A1	Minimum experience of 03 years in lightering of coal at an anchorage port. In the event of a Joint Venture, experience of a single Joint Venture Partner will be considered
A2	Experience in lightering of at least two (02) million MT of coal per annum in last 03 years. In the event of a Joint Venture, experience of a single Joint Venture Partner will be considered

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A3	<p>Minimum Average annual turnover of USD 7.0 million or equivalent, working capital, net assets and cash flow over the last three (3) financial years from the business of lightering of Coal. In the event of the joint venture, minimum 40% of the requirements must be met by the one of the partners and the balance by all remaining partners combined</p> <p>Working Capital and or evidence of access to or availability of Credit Facility for not less than USD 1.0 Million. In the event of the joint venture, minimum 40% of the requirements must be met by the one of the partners and the balance by all remaining partners combined</p> <p>i) In case of Working Capital, it will be derived by using the following formula based on the values represent the latest balance sheet.</p> <p>Working Capital = Total Current Assets – Total Current Liabilities – Total Litigation</p> <p>ii) Applicant shall provide original letter of confirmation from the applicant’s bank(s) as evidence of availability of Credit Facilities. Photocopies, faxes, email shall not be acceptable.</p> <p>iii) All pending litigation and arbitration, if any, shall be treated as resolved against the Bidder</p>
B	Technical suitability of the SPBs / Technical Eligibility & Qualifications. In the event of the joint venture, requirements must be met by all partners combined.
B1	Minimum 3 pay loaders
B2	Total Deadweight (DWT) of the SPBs offered,
B3	Class/Class expiry date /Flag (should be a Class acceptable to the Sri Lanka Flag Administration),
B4	Validity of Protection & Indemnity Insurance Covering following liabilities Wreck removal, Port/jetty property damages, Oil pollution and Crew, cargo, third party liabilities and expiry date of the cover
B5	Statutory and relevant Trading Certificates,
B6	Age less than 15 years,
B7	Dimensions of holds of self-propelled barges (SPBs)
B8	Deck barges with open single hold will be accepted
B9	Minimum aggregate DWT of SPBs: 12,000 MT (Minimum 6 Barges)
B11	Maximum draft: 3.7 M
B12	Minimum / Maximum LOA: 64 M / 86 M
B13	Minimum/Maximum Beam 12M/21M
B14	Details of the SPBs should be provided in the Form 8.
C	Financial Eligibility and Qualifications
C1	The Lowest Base Lightering Rate offered on per MT basis

#### 9.4. Bid Evaluation

##### 9.4.1. Qualification of Bidders

To be qualified to Bid for Lightering of coal, the bidder shall provide evidence of the capability and adequacy of resources to carry out the Contract effectively satisfactory to the TEC/SCAPC. Bidders shall include the following information:

##### I. Information and Experience of the Bidder (Form 1);

- II. Particular experience over the last three (3) years (Form 2);
- III. References of past customers, together with the contact address, etc. of each customer, in order to show past performance (Form 3);
- V. Evidence of financial standing. Annual Reports and audited financial statements for the last three (3) consecutive years (Form 4);
- VI. Authority to seek references from the Bidder's bankers (Form 5);
- VII. Information regarding any Litigation in Court of Law or Arbitration, in which the Bidder is or was involved as a Respondent in the past three (3) years, the parties concerned, and disputed amounts (Form 6)
- IX. Additional information (Form 7)
- X. Details, including all trading certificates, of the self-propelled barges firmly offered to be deployed in to the operation (Form 8).
- Xi. Details of Key Staff as per the 3.1 Personnel Requirement of Employer's Requirement (Form 9)

9.4.2. The Evaluation of Bids will be carried in 03 steps.

Step 1: Preliminary Examination for Responsiveness

Step 2: Evaluation of Qualifications, Experience and Information (Technical feasibility)

Step 3: Price Proposal

**Step 1: Preliminary Examination for Responsiveness;**

- a. Examination of the Bid Security for the amount, date of expiry and the bank, which issued the Bid Security (in accordance with the format provided in the Annex 2 to the ITB);
- b. Checking whether the Certificate of Registrar of Public Contracts has been submitted;
- c. Examination of the Letter of Bid whether it has been duly filled and signed (as per the format provided in Annex 2 to the ITB);
- e. Submission of Power of Attorney (only for foreign Bidders).
- f. Examination of joint venture partnership/shareholding agreement, in the event the Bidder is a joint venture

The Bids, which have fulfilled the above Preliminary Examination for Responsiveness, will be evaluated in detail for their technical feasibility.

**Step 2: Evaluation of Qualifications, Experience and Information;**

The Employer evaluates the Envelope 1 – Qualification and Experience Information on the basis of their responsiveness to the requirements of the bid, applying the **evaluation criteria, and point system specified in BDS and;**

- a. Fulfillment of the minimum of 03 years of experience in Lightering of Coal in similar nature and the quantity lightered (Form 2)
- b. References provided (Form 3)
- c. Financial information (Form 4)
- d. Litigation if any (Form 6) Whether the total Deadweight of the Barges proposed to be deployed in to the operation is more than 12,000 MT in aggregate;
- e. Whether the technical specifications are acceptable as per the Technical Specifications laid down in the Bidding Document 9.3.1. (b).

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During the evaluation of Envelope 1 for qualification and experience, the Employer will determine whether the Bidders are qualified and substantially responsive to the requirements set forth in the Bidding Document. In order to reach such a determination, the Employer will examine the information supplied by the Bidders, and other requirements in the Bidding Document, taking into account the factors and point system outlined in the BDS.

Each substantial responsive bid will be given a score as described above. A Bid shall be rejected at this stage if it does not respond to important aspects of the Employer's Requirements or if it fails to achieve an **overall minimum of 60 points** together with the **minimum given against each criterion**.

Bids, which are in compliance with all the Qualifications, Experience and Information and have scored **overall minimum of 60 points** together with the minimum given against each criterion, will be considered for Financial Evaluations.

### Step 3. Financial Evaluation of Bids;

After the evaluation of Envelope 1 is completed, the Employer shall notify those Bidders whose qualification and experience did not meet the minimum qualifying marks or were considered nonresponsive to the Employer's Requirements, indicating that their envelope marked 'Envelope 2 – Financial Bid' will be returned unopened after completing the selection process. The Employer shall simultaneously notify the Bidders that have secured the minimum qualifying marks, indicating the date and time set for opening the envelope marked 'Envelope 2 - Financial Bid'. The notification may be sent by registered letter, email or facsimile.

The Envelope 2 shall be opened publicly in the presence of the Bidders' representatives who choose to attend. The name of the bidder, the Bid prices together with any discounts offered shall be read aloud and recorded when the envelopes marked 'Envelope 2 – Financial Bid' are opened

Before evaluating the Financial Bid, the Employer will determine whether the Bid is signed properly. If the Bid is not signed properly, it will be rejected at this stage.

In evaluating the Financial Bid, the Employer will determine the lowest Evaluated Bid Price by

- Correcting the arithmetical errors in-pursuant to Clause 9.4.3.
- Applying any discounts offered by the Bidder.
- Lowest offered Base Lightering rate in USD/ per MT
- In the event of more than 02 or more Bidders have offered the same Base Lightering Rate, the suitable Bidder shall be decided in considering the points obtained for the evaluation criteria point system of evaluation of qualification & experience.

The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, alternative offers, and other factors that are in excess of the requirements of the Bidding document shall not be taken into account in Bid evaluation.

#### 9.4.3 Correction of Errors

Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Arithmetical errors will be rectified by the Employer on the following basis: if there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected; if there is a discrepancy between the amounts in figures and in words, the amount in words will prevail.

The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid will be rejected, and the Bid Security may be forfeited in accordance with Sub- Clause 12.5.

#### 9.4.4 NPA Guidelines

Guideline given by the National Procurement Agency of Sri Lanka (NPA guideline) will be applicable for the evaluation of bids, as and when necessary

### 9.5. Contacts with LCC

Subject to Clause 6.0, no Bidder shall contact LCC or any other person or organization involved on any matter relating to its Bid, from the time of the opening of Bids to the time the Contract is awarded. Any effort by a Bidder to influence LCC in Bid evaluation, bid comparison or Contract Award decisions may result in rejection of the Bid.

## 10. Award of Contract

### 10.1 Acceptability

After negotiations by the SCAPC on behalf of the LCC, while taking in to account of the Bids received from the most responsive Bidder, SCAPC will determine to its satisfaction whether the Bidder selected by the evaluation process as having submitted the most responsive Bid as described in Clause 9.3, is qualified to satisfactorily perform the Contract.

SCAPC reserves the right to accept or reject any Bid, and to cancel the Bidding process and reject all Bids at any time prior to the issuance of the letter of acceptance, without thereby incurring any liability to the Bidders or any obligation to inform the Bidders of the grounds for SCAPC's action.

The Secretary, Ministry of Ports and Shipping will inform the unsuccessful bidders in writing, within one week of being informed of the recommendations of SCAPC.

The final award of the Contract shall be subject to the approval of the Cabinet of Ministers of the Government of Sri Lanka.

### 10.2 Notification of Acceptance and Signing of the Contracts

Subject to procedure if provided in the BDS, after determining the successful Bidder in accordance with the Clause 10.1 and prior to the expiration of the period of Bid validity, LCC will notify the successful Bidder in writing by registered letter or electronically by email or telefax that his Bid has been accepted.

Within 07 working days of receipt of the Letter of Acceptance and the proposed Coal Lightering Agreement, the successful Bidder shall enter into an agreement with LCC. The date and venue for signing the Agreement shall be agreed between the Parties.

The successful Bidder shall deliver to LCC at its own cost three (3) sets of the Lightering Agreement, all duly bound, within 10 days from receipt of the originals from LCC.

### 10.3 Performance Security

Within 14 banking days of receipt of the Letter of Acceptance, the successful Bidder shall furnish the Performance Security for amount and validity given in the BDS in accordance with the format given in the Annexure 3.

The Performance Security in the Form of a bank security shall be issued by:

- A bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka, or
- A bank in another country, but the security confirmed by a bank operating in Sri Lanka approved by the Central Bank of Sri Lanka.
- If the Contract is extended, the Performance Security should be furnished by June 1 in every extended Contract Year.

Failure of the successful Bidder to comply with the requirements of Clause 10.2 or Clause 10.3 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security.

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### Section 3: Bid Data Sheet (BDS)

This Bid Data Sheet provides information in a tabular Form to assist Bidders with Bid preparation and shall be attached to the Bid.

Item No	ITB clause Reference	Name	Description
1	ITB 1 ITB 7.4.4	Name of the Contract	Coal Lightering Service for Lakvijaya Power Plant, Sri Lanka from Jan-2025 to April 2027 (Season 2024-2025, Season 2025-2026 and Season 2026-2027)
2	ITB 1 ITB 7.4.4	Identification number of the contract Invitation for Bids (IFB) No	LCC/24/L T/1
3	ITB 1	The Employer & the Procurement Entity	Lanka Coal Company (Private) Limited. (LCC)
4	ITB 1 ITB 7.4.4	Address of the Employer	The Chairman, Lanka Coal Company (Private) Limited, 51/3 Suranimala place, Off-dutugemunu street, Dehiwala, Sri Lanka.  Tel: +94-11-2824681 / +94-11-2824682 Fax: +94-11-2824689 Email:
5	ITB 1	Contract Period Intended Service Period  General time period for lightering operation in Puttalam port ("Season")	A Season normally defines as Mid of the September to mid of May of subsequent year subject to adjustment on mutual agreement  The period of the intended Lightering Contract shall be for two and half (2 1/2) Seasons commencing from start of the January, 2024 to mid of May 2027 (Season 2024-2025, Season 2025-2026 and Season 2026-2027), thereafter may be extendable for a another two (02) Contract Years at the sole discretion of LCC. Commencement date of lightering shall be mutually agreed by all stakeholders, including CEB and LCC, depending on the arrival date of the first ship in the Season.
6		Quantity of Coal to be lightered under this Contract	5,625,000 Metric Tons +/- 10% per Contract Year
7	ITB 3.2	Purchasing fee of Bid document	Nonrefundable fee of LKR. 100,000/-
8	ITB 4.2	Pre-bid Teleconference	A Pre-Bid teleconference will be held between 1.00 pm to 3.00 pm local time on <b>September 18, 2024</b> through online
9	ITB 6	Address for Clarification	General Manager Lanka Coal Company (Private) Limited., 51/3 Suranimala place, Off-dutugemunu street, Dehiwala, Sri Lanka. Tel: +94-11-2824681 / +94-11-2824682

			Fax: +94-11-2824689 Email: sujantha.pm@lankacoal.lk
10	ITB 6	Clarification of Bidding Document	Any clarification on the bidding document shall be received by LCC on or before <b>14.00 hrs on October 2, 2024</b>
11	ITB 7.4.2	Other information necessary submit in Envelop 1	
12	ITB 7.7	Amount of Bid Security Period of validity of Bid Security	<b>USD 100,000/- (United States Dollars One Hundred Thousand)</b> 120 days beyond deadline of submission of bids
13	ITB 7.8	Period of Validity of Bids	Bid shall be valid 90 days beyond the deadline of submission of bids
14	ITB 8.2	Deadline for submission of bids	10.00 hrs (Sri Lanka Standard Time) on <b>October 10, 2024</b>
15	ITB 7.4.4 ITB 8.1	Place at which Bids will be received	The Chairman, Lanka Coal Company (Private) Limited, On behalf of Standing Cabinet Appointed Procurement Committee (SCAPC), 51/3 Suranimala place, Off-dutugemunu street, Dehiwala, Sri Lanka.
16	ITB 9.1.1	Time and Date for Bid Opening	Immediately after the Deadline for submission of bids
17	ITB 9.1.1	Place of Bid Opening	Lanka Coal Company (Private) Limited, 51/3 Suranimala place, Off-dutugemunu street, Dehiwala, Sri Lanka.
18	ITB 10.2	Notification of Acceptance  (Appeal Procedure)	After evaluation of Bids, the Employer will inform to all the bidders in writing the selection of the successful bidder and the intention of contract award to such bidder.  The unsuccessful bidders if they so wish, within one week of such notice may make representation to the Procurement Appeal Board at the address given below. Such representation shall be self-contained to enable the Appeal Board to arrive at a conclusion and a cash deposit to amount given below shall be made. The Appeal Board may request the bidder who had made representation to submit further evidence during the investigations. The cash deposit will be forfeited unless the Employer change the original contract award decision in favour of the bidder who has made such representation. Address: The Chairman, Procurement Appeal Board, Presidential Secretariat, Colombo 01, Sri Lanka. Cash Deposit: LKR 100,000.00
19	ITB 10.3	Performance Security Amount Validity	Base Lightering Rate USD ..... x <b>2,250,000</b> x 5%  60 days beyond the contract completion date

## ITB 9.4.2: Evaluation of Qualifications, Experience and Information

### Criteria for Evaluation of Qualification and Experience Information

Item	Criteria	Minimum Requirement	Maximum Points	Minimum Required	Remarks
1	Services performed during the last three (03) years	Minimum experience of 3 years in lightering of coal at an anchorage port	20	10	10 points for experience of 3 years in lightering of coal at an anchorage port
2	Experience in similar assignments during last three (03) years	Experience in lightering of at least two (02) million MT of coal per annum in last 03 years	20	10	10 points for experience in lightering of two (02) million MT of coal per annum in last 03 years.
3	Key Staff				
3.1	Key Staff	As stipulated in the item 3.1: Minimum personnel Requirement of Section 4 Employer Requirement	6	5	5 points for the minimum key staff
3.2		SPBs crew / Mooring gangs	4	4	4 points for necessary valid visas and other competency certificates, minimum manning requirement as per the rules/regulations of Immigration and Emigration Dept. of Sri Lanka, DGMS, Sri Lanka and STCW requirements.
4	Technical suitability	As stipulated in the Section 04 - 1.10 & 1.8 of Employer's Requirement			
4.1		LoA / Beam / Breadth / Depth / Draft / Air Draft / speedholds/ Certificates/open holds	11	6	3 points for Age less than 15 years 3 points for others (Minimum aggregate DWT of SPBs: 12,000 MT, Maximum draft: 3.7 m, Minimum / Maximum LOA: 64 m / 86 m, Minimum/Maximum Beam 12m/21m, Deck barges with open single hold, Statutory and relevant Trading Certificates)
4.2		03 Pay loaders	4	3	3 points for 03 pay loaders
4.3		Class / Flag registry	5	3	3 points for a Class acceptable to the Sri Lanka Flag Administration

4.4		Insurance cover (P&I - H&M)	5	3	3 points for covering following liabilities Wreck removal, Port/jetty property damages, Oil pollution and Crew, cargo, third party liabilities and expiry date of the cover
5	Financial capability	Financial Status of Bidder			
5.1		Working Capital	7	4	4 points for working capital of USD 1.0 million
5.2		"Assets" - "Liabilities" - "Litigation" = "Positive"	6	4	4 points for "positive"
5.3		7 million annual turnover	6	4	4 points for 7 million annual turnover
5.4		Audited financial details	6	4	4 points for Audited Financial details for last 03 years
	Total		100	60	

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## Section 4: Employers Requirement

### 1. Introduction

#### 1.1 The Employer

The Employer, Lanka Coal Company (Private) Limited. (LCC) is the 100% Government owned National Line of Sri Lanka. The Coal is imported for the Lakvijaya Power Plant (LVPP) at Puttalam, Sri Lanka, owned and operated by M/s Ceylon Electricity Board (CEB).

#### 1.2 Lanka Coal Company (LCC)

LCC was incorporated in January 2008 as the authorized agency for the procurement, import and supply of coal to meet full requirements of all coal for the coal fired power stations of CEB. Shares of the LCC are held by the Ceylon Electricity Board, General Treasury, Sri Lanka Ports Authority and Lanka Coal Company (Private) Limited.

#### 1.3 Lakvijaya Power Plant

The Lakvijaya Power Plant (LVPP) is a power generation plant located at Narakkalliya, Norochcholai Kalpitiya Peninsula of Sri Lanka. The Power Plant is situated about 130 km north of Colombo on the West Coast of Sri Lanka. The Plant consists of three turbo generators with coal fired boiler units with an install capacity of 3 x 300 MW, along with the all-necessary site infrastructure, auxiliary systems and other engineering works necessary including the coal handling system. The Coal handling system includes a jetty, conveyor system to transport coal to the coal storage facility and coal feeding conveyor system to transport coal from the storage facility to the Power plant.

#### 1.4 Coal Unloading Jetty of the LVPP

The Jetty of the Power Plant is inclusive of four (4) grab bucket unloader cranes of each having minimum unloading capacity of 500 MT/hour. In the normal unloading time, two grab cranes are in operation by maintaining the sufficient unloading rate to facilitate for the smooth lightering operation.

#### 1.5 Lightering Operation

Due to lack of depth, mother vessels carrying Coal are unable to discharge cargo alongside the Jetty of the LVPP. Therefore, mother vessels are anchored about 2.5-3.0 nautical miles offshore. The anchorage area is within a radius of about 1.0 km from the location of approximately 08° 00' N, 079° 40' E. Bidders are advised to study the available depths at the anchorage area from the Chart/s available at the National Hydrographic Office, National Aquatic Resources Research & Development Agency, Crow Island, Mattakkuliya, Colombo 15, Sri Lanka.

Since the South-West Monsoon affects the port of Puttalam, discharging of coal can be done only during a limited window between about mid-September to mid-May of the next year, always subject to mutual agreement among all the stakeholders.

Since the said inception, only geared Supramax, Panamax, Ultramax and Kamsarmax sized vessels were used for transportation of coal.

The cargo quantity of the shipments will be about 65,000 MT +/- 10%.



Lightering of Coal should be conducted with the use of self-propelled open deck barges (SPBs) only.

Owner and Operator of the coal unloading Jetty - CEB engages mooring gangs to support the Lightering Service Provider in mooring of barges at the Jetty of the Power Station at the time when the barges safely arrive alongside the Jetty, using the mooring ropes of the said barges. During this said operation, CEB discharge Coal using Jetty cranes.

## **2 General Requirements of Lakvijaya Power Plant**

### **2.1 Medical Services**

The Lightering Service Provider shall provide first aid facilities maintaining first aid stations at site including the following emergency materials but not limited to stretchers, woollen blankets and appliances for artificial breathing, wound dressing material and disinfection material and all other necessary medical cares for all persons employed by him and by any subcontractor employed by him.

### **2.2 Salaries and wages**

It is the responsibility of the Lightering Service Provider to pay salaries and wages including other statutory requirements (Overtime payment, EPF, ETF, allowances, etc.) to any local personnel employed by him throughout the working period in accordance with of Wages Board Ordinance, Budgetary Relief Allowance of Workers Act, No 36 of 2015 in force and any other applicable government rules & regulations.

### **2.3 Transportation of Personnel**

It is the responsibility of the Lightering Service Provider to provide suitable transport facilities to personnel employed by him throughout the working period, such that the works shall not suffer due to lack of transport facilities

### **2.4 Safety**

The Lightering Service Provider shall take necessary precautions to protect the all the properties of CEB from any damage due to any activities during execution of the contract. In the case of such damage, the Lightering Service Provider shall make arrangement to rectify/replace it by his own cost immediately.

CEB will not take any responsibility regarding safety of the people deployed by the Lightering Service Provider. Therefore, Lightering Service Provider shall ensure the safety of his employees. The safety shall confirm to applicable standards for this service. The Lightering Service Provider himself shall supply the required safety equipment as well as protective clothing for his employees and work site.

The maximum possible safety must be rendered to personnel directly engaged on this Contract or those who frequently are in the working area or those who in the normal course of their occupation find it necessary to utilize temporary works erected by the Lightering Service Provider.

The Lightering Service Provider shall be responsible for safety along the roads within the power plant premises related to site. The Lightering Service Provider shall maintain the vehicular and pedestrian traffic safe at all times by adhering to the road and speed sign limits within the premises.

## **2.5 Fire Protection**

The Lightering Service Provider shall take every precaution to prevent fire occurring on or about the Site and shall use suitable and adequate firefighting equipment at places where the services are executed. The Lightering Service Provider shall comply with the laws in force and instructions of the Employer with respect to the prevention of fires.

The Lightering Service Provider shall inform to the employer with respect to any maintenance on the firefighting equipment.

The Lightering Service Provider shall fight diligently any fire which may occur on the Site wherever the fire may originate, with regard to which he shall employ all requisite equipment and manpower up to the limit of his equipment and manpower employed at the Site, including the equipment and manpower of his subcontractors.

The Lightering Service Provider shall ensure that his personnel at site refrain from smoking at all times.

## **2.6 Accident Reports**

The Lightering Service Provider shall, immediately after occurrence of any accident at or about the Site or in connection with the execution of the service, report such accident to the Employer. The Lightering Service Provider shall also report such accident to the appropriate authority when it is required by the law. The Lightering Service Provider shall be required to furnish monthly reports of all accidents to staff, workmen, equipment or Plant involving loss of time, giving such information as may be prescribed by the Employer.

## **2.7 Services provided by CEB**

CEB will provide required below mention utilities free of charge for the execution of services at the jetty of Lakvijaya Power Plant. The Lightering Service Provider, upon approval of the Employer, shall make arrangement to obtain such facilities from the nearest possible tapping point without any interruption to the Power Plant Operation and Maintenance.

- Water for barges at Jetty
- Electricity for barges at Jetty
- Air-conditioned Office space (12 m<sup>2</sup>) at jetty
- Sanatory facilities as normally available at jetty

## **2.8 Sanitary arrangement and Prevention of Environmental pollution**

The Lightering Service Provider shall provide and maintain sanitary convenience for the use of persons employed to the extent and in the manner and at such places as approved by the Employer and by any local or other authority concerned, and all persons connected with the Facilities shall be obliged to use this convenience.

The Lightering Service Provider shall take all reasonable means and steps to prevent pollution of water, air and environment in or around the site, in accordance with the rules of the power plant along with local or governmental authorities.

## **2.9 Security**

The service provider shall obtain prior permission for his personal, goods, equipment and vehicles to enter in to the Power Plant using the standard forms available at the Occupational Health & Safety (OHS) unit of the LVPP. The entry request shall be filled by the Service Provider and submitted to the Officer in charge of the Service with sufficient time prior to start the Services.

In addition to that, all the Service Provider's personal shall submit following documents at their first entry to the Power Plant.

**Expatriates**

- a. Copy of the bio data page of the passport
- b. Copy of the relevant visa page of the passport
- c. Copy of the relevant Stamp page of the Immigration and Emigration department of Sri Lanka at entry

**Local Personnel**

- a. Copy of National Identity Card (NIC).
- b. Grama Niladhari (G.N.) Certificate.
- c. **Police Clearance Report** (This is applicable only for the Works & Service contracts of period lasting over three months. In case of the police clearance certificate is not available at the first date of reporting to the plant, the certificate shall be submitted to the Manager (OHS) within four weeks starting from the date of their first reporting to the site. However, they shall submit a proof document (e.g. the receipt issued by the police station for application of police clearance certificate) with the entry passes request application which they already applied the police clearance certificate

**3. Other Requirements**

**3.1 Minimum personnel Requirement**

The Lightering Service Provider shall deploy the following minimum personnel requirement throughout the service period. The personnel so deployed shall have minimum qualifications as stipulated below.

Item	Description	Minimum experience in Similar field	Minimum Personnel Requirement / Nos.
1	Officer in Charge of Lightering Operation	20 years	1
2	Head of offshore Lightering Operation	15 years	1
3	Supervisor - Bulk Cargo handling	10 years	1
4	Team Leader - Stevedoring	7 years	2
5	Team Leader – Barge handling	7 years	4
6	Barge Master	7 years	7
7	Crane Operators	10 years	16
8	Stevedores	3 years	24
9	Barge Crew	3 years	70
	<b>Total</b>		<b>126</b>

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## Section 5: Bidding Forms

In the case of joint venture, separate forms shall be submitted by each partner.

### 5.1 Forms for Bidder's information & Qualifications

#### Form 1 – Statement of Bidder

	Items	Bidder's Response								
1.	- Name of Firm - Acronym (if any): - Former Name of Firm (if any): - Year established under former name (if applicable):	..... ..... ..... .....								
2.	Address of Head Office - Street: - P.O. Box (if any): - Postal Code, City, Country: - Telephone No.: - Telefax No.: - Web address:	..... ..... ..... ..... ..... .....								
3.	Contact Person - Name: - Position / Title: - Telephone No.: - Telefax No.: - E-Mail address	..... ..... ..... ..... .....								
4.	Type of Organization (check one of the spaces): - Individual Owner - Partnership - Private Company - Public Corporation - Joint Venture - State Enterprise - Other	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> <tr><td style="width: 30px; height: 20px;"></td></tr> </table>								
5.	Date of incorporation: Place of Incorporation:	..... .....								
6.	Is this a group firm formed by its member firms?	(yes) (no)								
7.	Is this a parent firm with subsidiaries?	(yes) (no)								
8.	Branch of Specialization: (Please attach brochures to demonstrate the specializations mentioned here)	..... .....								

		..... .....
9.	In case the Bidder is a joint- venture, list here names and address of all members and proportion of their participation:  (a) Leading Member (Lead Partner)  Other Members: b)  c)  d)  e)	..... ..... ..... ..... ..... ..... ..... ..... ..... .....
	Total annual turnover as per the audited accounts in the last three (3) consecutive financial years in equivalent USD.	2010 ..... million USD 2022 ..... million USD 2023 ..... million USD

Bidder's Signature.....

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**Form 2 – General Experience**

Item		Bidders Response		
1	How many years has your organization been in business under your present business name:			
2	How many years of experience in work related to lightering of coal			
3	Indicate years of organization’s overseas experience in lightering of coal, if any			
4	Indicate the quantity of coal lightered during last 03 years	Year	Port	Quantity MT
		2021/2022		
		2022/2023		

Bidder’s Signature.....

Information copy Not for bidding

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**Form 3 – References**

Please list, as references, the names and addresses to which your firm has performed stevedoring and lightering services in the last three (3) years. These References shall be supported by separate letters issued by the Referees addressed to Chairman, SCAPC.

a. Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Relationship: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone/Email: \_\_\_\_\_  
Quantity discharged (onboard stevedoring) and lightered: \_\_\_\_\_

b. Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Relationship: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone/Email: \_\_\_\_\_  
Quantity discharged (on board stevedoring) and lightered: \_\_\_\_\_

c. Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Relationship: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone/Email: \_\_\_\_\_  
Quantity discharged (on board stevedoring) and lightered: \_\_\_\_\_

Bidder's Signature.....

**Form 4 – Financial Status of Bidder**

1. Bidder shall summarize actual assets and liabilities in U.S. dollar equivalent (at the rates of exchange that prevailed at the end of each year) for the last three (3) consecutive years.

Financial information in USD equivalent		Financial Year 1	Financial Year 2	Financial Year 3
1.	Working Capital			
2.	Total net assets			
3.	Current assets			
4.	Total liabilities			
5.	Current liabilities			
6.	Annual turnover			
7.	Ordinary Profits			
8.	Profits before taxes			
9.	Profits after taxes			

Bidder shall attach annual reports and certified copies of audited financial statements for the last three (3) consecutive years.

Bidder's Signature.....



**Form 5 – Primary Banker’s Information**

Name, address, and telephone and fax numbers of the company’s bankers who may provide references if contacted by LCC.

Items		Bidder’s Response
1.	Name of Bank:  Address:  Contacts: - Telephone Number: - Telefax Number:	..... ..... ..... ..... ..... ..... .....
2.	Name of Bank:  Address:  Contacts: - Telephone Number: - Telefax Number:	..... ..... ..... ..... ..... ..... .....

Bidder’s Signature.....

Information copy - Not for bidding

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**Form 6 – LITIGATION as the Respondent**

*The Bidder shall provide below information on Litigation in Court of Law or Arbitration in which the Bidder is or was involved as the Respondent in the past three (3) years.*

<b>Nature Litigation / Arbitration</b>	<b>Other Party/Parties</b>	<b>Cause of Dispute</b>	<b>Amount Involved</b>	<b>Current Status as of the date of Bidding</b>

Bidder's Signature.....

Information copy - Not for bidding

.....

**Form 7 – Additional Information by Bidder**

*The Bidder is requested to list below any additional information submitted with the bid such as company brochures, company annual reports and any other relevant information.*

Bidder's Signature.....

Information copy - Not for bidding

**Form 8 - Details of The Self-Propelled Barges firmly offered to be deployed in to the operation**

The bidder shall provide following information by filling and submitting with the bid separates sheets for each barge.

1	Name of the Barge	
2	Name of the Owner	
3	Flag	
4	Year & month Built	
5	Class	
6	Expiry Date of Class	
7	P&I Club	
8	Expiry Date of P&I Cover	
9	DWT (MT)	
10	LOA (M)	
11	Beam (M)	
12	Fully Loaded Draft(M)	
13	No. of Payloaders	
14	Max Draft (M)	
15	Trading certificates	
16	Dimensions of holes	
17	Deck barges with open single hole	

Bidder's Signature.....

**Form 9 – Key Staff (as per the 3.1 Personnel Requirement of Employer’s Requirement)**

[If requested under ITB clause 20.3 only]

(Enclosed in envelope marked, “Envelope 1 – Qualification and Experience Information”)

Name & Designation	Qualification & Experience	Remarks

**Note:**

1. Attach one page bio data with qualification & experience with supporting documents

## 5.2 Forms for Annexures to Instructions to Bidders

### Annex 1: Letter of Bid

REFERENCE: CLAUSE 7.0 (i) IN THE INSTRUCTIONS TO BIDDERS

TO: \_\_\_\_\_ (LCC) \_\_\_\_\_ This document presents response of \_\_\_\_\_ (Bidder) \_\_\_\_\_ to the INVITATION FOR BIDS NO. LCC/24/L T/1 of Lanka Coal Private Limited (LCC).

This document represents our firm and binding offer to contract with LCC for lightering of coal (including on board stevedoring, cleaning of ship holds and barge holds deploying necessary Floating Crane/s if required, deployment of essential Pay Loaders, skilled labour, mobilisation and demobilisation of barges and other equipment) at the Base Lightering Rate indicated in the Annex 5 of the Bid on the terms and conditions specified herein and in the INSTRUCTIONS TO BIDDERS and the DRAFT LIGHTERING AGREEMENT.

If selected for award, we shall be bound to lighter coal in the Puttalam port pursuant to (a) an executed LIGHTERING AGREEMENT (b) our Offer as accepted by LCC as per our Price Schedule in the Annex 5. We agree to abide by this Letter of Bid until \_\_\_\_\_ (date and time) and it shall remain binding upon us and may be accepted at any time before that date. We acknowledge that all documents submitted with our Bid shall form part of this Letter of Bid.

Unless and until the LIGHTERING AGREEMENT is executed, this Letter of Bid, together with LCC's written acceptance thereof, shall constitute a binding contract between us.

We understand that LCC is not bound to accept the lowest or any Bid LCC may receive.

(In case of a Joint Venture) We, as Joint Venture Partners, undertake that our liabilities shall be joint and several.

BIDDER:

Company Name : \_\_\_\_\_  
By : \_\_\_\_\_ (Authorized Signature)

(Please affix company seal here)

Name : \_\_\_\_\_  
Title : \_\_\_\_\_  
Date : \_\_\_\_\_

**Annex 2: Specimen Form of Bid Security**

REFERENCE: CLAUSE 7.7 INSTRUCTIONS TO BIDDERS

IFB No. LCC/24/L T/1

Name and address of Beneficiary \_\_\_\_\_ (LCC)  
\_\_\_\_\_ (whom the Bid documents define as the Buyer).

We have been informed that \_\_\_\_\_ (hereinafter called the "Bidder") is submitting a Bid for a contract for supply of coal in

\_\_\_\_\_ response to your invitation under conditions of your invitation which are set

Invitation For Bids No. \_\_\_\_\_, and that the  
out in a document entitled Instructions to Bidders require its Bid to be supported by a Bid security.  
At the request of the Bidder, we (name of bank) \_\_\_\_\_ hereby  
irrevocably undertake to pay you, the Beneficiary/Buyer, any sum or sums not  
\_\_\_\_\_ exceeding in total the

amount \_\_\_\_\_ of \_\_\_\_\_

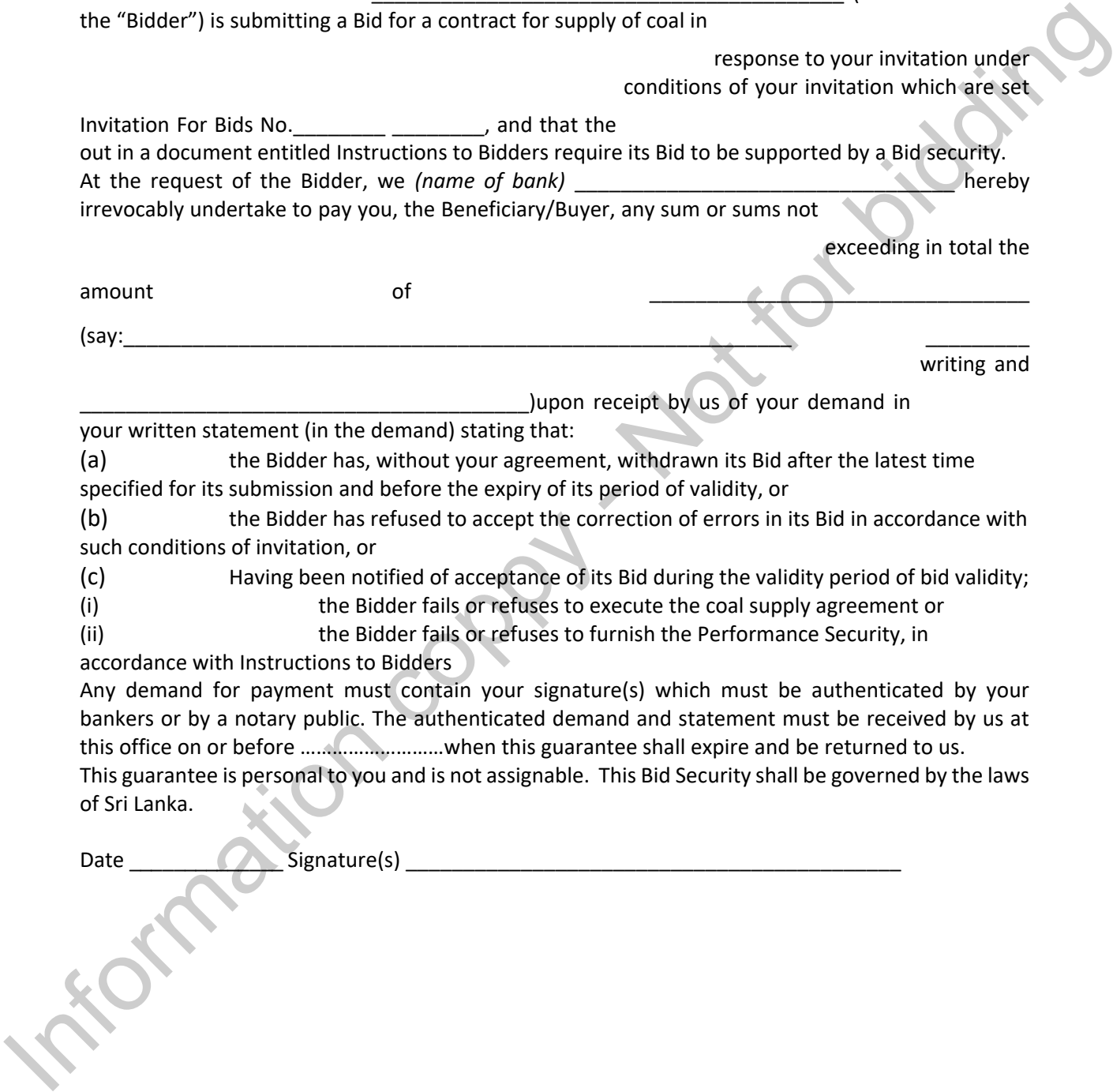
(say: \_\_\_\_\_ writing and

\_\_\_\_\_ ) upon receipt by us of your demand in your written statement (in the demand) stating that:

- (a) \_\_\_\_\_ the Bidder has, without your agreement, withdrawn its Bid after the latest time specified for its submission and before the expiry of its period of validity, or
- (b) \_\_\_\_\_ the Bidder has refused to accept the correction of errors in its Bid in accordance with such conditions of invitation, or
- (c) \_\_\_\_\_ Having been notified of acceptance of its Bid during the validity period of bid validity;
  - (i) \_\_\_\_\_ the Bidder fails or refuses to execute the coal supply agreement or
  - (ii) \_\_\_\_\_ the Bidder fails or refuses to furnish the Performance Security, in accordance with Instructions to Bidders

Any demand for payment must contain your signature(s) which must be authenticated by your bankers or by a notary public. The authenticated demand and statement must be received by us at this office on or before .....when this guarantee shall expire and be returned to us. This guarantee is personal to you and is not assignable. This Bid Security shall be governed by the laws of Sri Lanka.

Date \_\_\_\_\_ Signature(s) \_\_\_\_\_



**Annex 3: Form for Performance Security**

REFERENCE: CLAUSE 10.3 INSTRUCTIONS TO BIDDERS

[On the letterhead of the issuing bank]

[Date]

To: [Buyer]

Dear Sirs,

**[Issuing Bank]**

**Account: Lightering Service Provider**

1. We, the undersigned Issuing Bank, understand that:

(a) You, the Buyer, entered into a Coal Supply Agreement (the **Agreement**) dated \_\_\_\_\_, as amended with Lightering Service Provider; and

(b) Under the Agreement the Lightering Service Provider must provide to you a performance security.

At the request of the Lightering Service Provider, we (*name of bank*) \_\_\_\_\_ hereby unconditionally and irrevocably undertake as primary obligator and not as surety merely to pay you, the Beneficiary/Buyer, any sum or sums not exceeding in total the amount of \_\_\_\_\_ (the "guaranteed amount", say: \_\_\_\_\_ ) upon receipt by us of your first demand in writing without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

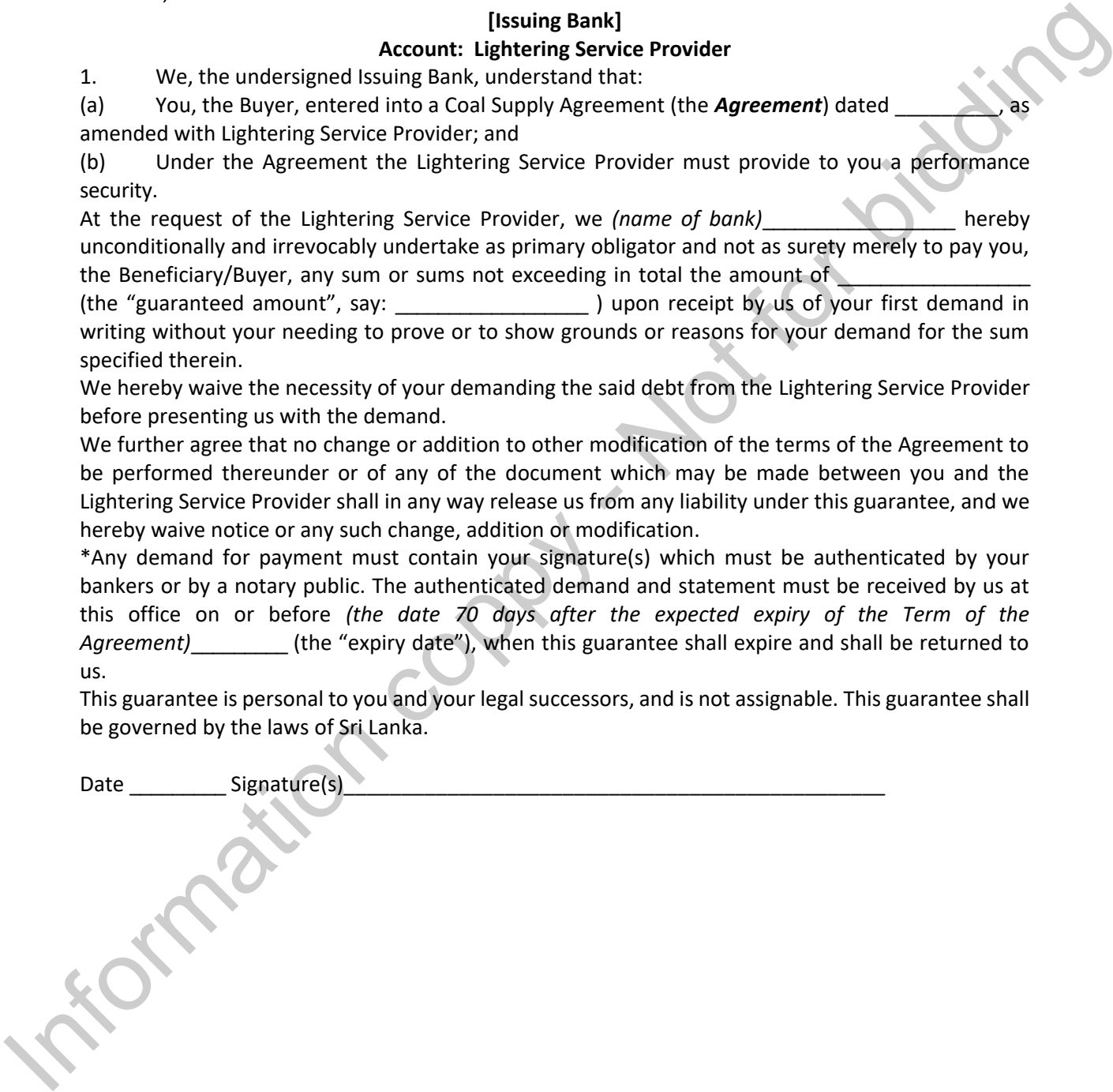
We hereby waive the necessity of your demanding the said debt from the Lightering Service Provider before presenting us with the demand.

We further agree that no change or addition to other modification of the terms of the Agreement to be performed thereunder or of any of the document which may be made between you and the Lightering Service Provider shall in any way release us from any liability under this guarantee, and we hereby waive notice or any such change, addition or modification.

\*Any demand for payment must contain your signature(s) which must be authenticated by your bankers or by a notary public. The authenticated demand and statement must be received by us at this office on or before (*the date 70 days after the expected expiry of the Term of the Agreement*) \_\_\_\_\_ (the "expiry date"), when this guarantee shall expire and shall be returned to us.

This guarantee is personal to you and your legal successors, and is not assignable. This guarantee shall be governed by the laws of Sri Lanka.

Date \_\_\_\_\_ Signature(s) \_\_\_\_\_



.....



**Annex 4: Form of Power of Attorney**

REFERENCE: CLAUSE 7.9 IN THE INSTRUCTIONS TO BIDDERS

- I.
- II.

**Note:**

The Bidder shall attach a **Power of Attorney**, duly authorized by a Notary Public, indicating that the person(s) signing the Bid have the authority to sign the Bid and that the Bid is binding upon the Bidder during the full period of its validity in accordance with ITB Clause 7.8.

Information copy - Not for bidding

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**Annex 5: Price Schedule**

**Coal Lightering Service for Lakvijaya Power Plant, Sri Lanka from Jan-2025 to April 2027 (Season 2024-2025, Season 2025-2026 and Season 2026-2027)**

**Bid No.: LCC/24/L T/1**

The Base Lightering Rate to be offered in this bid shall be all inclusive rate. It shall include, but not limited to, followings;

- Net Lightering rate
- Stevedoring rate
- Expenses in providing and maintaining payloaders, Excavators, etc.
- Mobilization & Demobilization cost
- Sheltering, if applicable, of barges during the off season
- Personnel cost of Lightering Service Provider’s personnel (Accommodation, Food, etc.)
- Any applicable personnel taxes in Sri Lanka & Lightering Service Provider’s country
- Expenses in compiling with Custom formalities, Immigration and Port health
- Expenses in maintaining sufficient Mooring ropes and barge fenders
- Expenses in complying with statutory requirements of GOSL and CEB Lakvijaya Power Plant (Security, Safety, ect.)
- Expenses in complying with quarantine requirements due to any Pandemic situation
- All port charges for the SPBs.

**Price Schedule**

We hereby submit our Base Lightering rate USD/MT ..... (in words) as follows; per MT;

Item	Description	Qty	Base Lightering Rate / (USD/MT)	Total Amount / USD
A	Lightering of Coal (Discharging coal using Ships’ Cranes to barges at anchorage) and transport to the Jetty of the Lakvijaya Power Plant.	5,625,000 Metric Tons (MT)		
B1	Allow 20% Contingency for coal quantity variation (±10%), Bunker fuel adjustment and Incentive payment (A x 20%)	20%		
B2	Contract amount for lightering coal starting from January 1, 2024 to May 15, 2027 (A+B1)			

This offer is irrevocable until ..... and LCC may accept this offer at any time prior to, the date and time indicated in the LETTER OF BID.

**BIDDER:**

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

By : \_\_\_\_\_

(Authorized Signature)

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

Title : \_\_\_\_\_

Date : \_\_\_\_\_

Please affix company seal here.

Witnessed by : \_\_\_\_\_

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

Title : \_\_\_\_\_

Witnessed by : \_\_\_\_\_

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

Title : \_\_\_\_\_

Information copy - Not for bidding

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**Annex 6: Addenda Receipt**

REFERENCE: CLAUSE 6.0, INSTRUCTIONS TO BIDDERS

Lanka Coal Private Limited

INVITATION FOR BIDS NO: LCC/24/L T/1

BIDDER:

We, the undersigned hereby acknowledge that the revision, and/or supplemental information and explanation set forth in this Annex has been incorporated into the preparation of our Bid and shall be deemed to form a part of the Lightering Agreement Documents.

Addendum No.	_____	dated	_____
Addendum No.	_____	dated	_____
Addendum No.	_____	dated	_____

Note : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR AND ON BEHALF OF  
(BIDDER'S NAME)

\_\_\_\_\_

(Authorized Signature)

Name : \_\_\_\_\_  
Position : \_\_\_\_\_  
Place and Date : \_\_\_\_\_

Information copy - Not for bidding

## Section 6: Conditions of the Contract

### 1 Scope of Work

Discharging terms of Coal from mother vessel is on “free-out” basis. Lightering Service Provider will be responsible for safe double banking of SPBs to the vessel; mooring of SPBs with the vessel; on board stevedoring i.e. discharging from ship’s holds to the barges using ships cranes; carriage of coal using SPBs from the anchorage to the Jetty of the Power Plant; cleaning of holds of mother vessels and SPBs; engaging necessary supervisors, crane operators, linesmen, cleaning gangs etc., deployment of minimum of 03 Payloaders and operators etc.

No any mooring ropes will be provided by the ships or by LCC or by CEB

### 2. Period of Contract

The period of the intended Lightering Contract shall be for two and half (2 1/2) Seasons commencing from start of the January, 2024 to mid of May 2027 (Season 2024-2025, Season 2025-2026 and Season 2026-2027), thereafter may be extendable for a another two (02) Contract Years at the sole discretion of LCC. Commencement date of lightering shall be mutually agreed by all stakeholders, including CEB and LCC, depending on the arrival date of the first ship in the Season. A Season normally defines as Mid of the September to End of April of subsequent year.

### 3. Mobilization / De-mobilization / Registering of Foreign Flagged Vessels Under Sri Lankan Flag

- 3.1 All mobilization/de-mobilization costs of barges shall be on the selected Lightering Service Provider’s account.
- 3.2 Under Section 114 of the Merchant Shipping Act No. 52 of 1971, no foreign-flagged vessel shall be allowed to trade in Sri Lanka waters unless the necessary exemption is granted by the Minister in charge of the subject. Therefore, the selected Lightering Service Provider shall either register the SPBs under the Sri Lankan flag in a timely manner or obtain the required exemption upon signing the Agreement and prior to commencing lightering operations.
- 3.3 No unskilled expatriate labour shall be utilized by the selected Partner. If employment of any skilled expatriate labourers may be required, it should be with the prior consent of the LCC, subject to obtaining necessary Resident Visa/Work Permit subject to the due procedure. The responsibility to obtain the necessary Resident Visa/Work Permit for skilled expatriate workers totally lies with the selected Partner. LCC will only assist to provide necessary documents to obtain Residence Visa/Work Permit but will not bear any cost associated with such process.
- 3.4 SPBs shall be promptly moved out/de-mobilized out of the Puttalam port by Lightering Service Provider after completion of the last lightering operation of the last vessel in April/May of the relevant year since sheltering of SPBs at the Jetty of the Power Plant is not possible during the South-West monsoon period.
- 3.5 Quarantine charges, travel charges due to the situation of Covid 19, if applicable, shall be on the selected Lightering Service Provider’s account.

#### **4. Notice of Readiness (NOR), Laytime, Demurrage and Dispatch at the Port of Puttalam**

##### **4.1 Notice of Readiness (NOR) and Laytime of the Mother Vessel**

- 4.1.1 Master of the vessel shall tender Notice of Readiness (NOR) any time day and night Saturday, Sunday, holidays including, by telefax/email, after arrival at the designated transshipment anchorage in Puttalam port, whether in free pratique or not, whether cleared at Customs or not, whether in berth or not, whether in port to LCC with copy to Lightering Service Provider. Laytime shall commence after 12 hours Turn Time after tendering of NOR.
- 4.1.2 If the vessel is ordered to wait outside the limits of the port of Discharge (eg. at the anchorage at Port of Colombo), Master shall tender NOR after anchoring at such out port limits; and the laytime shall count after the Turn Time of 12 hours. If the master tenders NOR outside the port limits as aforesaid, the time taken from anchor aweigh at such out port anchorage until the time of anchoring at the designated discharging anchorage at Puttalam port shall not count as laytime or time on demurrage.
- 4.1.3 Laytime will commence twelve (12) consecutive hours after NOR is accepted by LCC. However, if unloading commences before the expiry of such 12-hour period, laytime shall commence to run upon commencement of unloading.
- 4.1.4 For NOR purposes, if a vessel tenders NOR without having ISPS clearance or in case free pratique is not granted, then the NOR is to be re-tendered once ISPS clearance is received or free pratique is granted.
- 4.1.5 Time required for loading of Vessel's bunkers and lubricants at the discharging anchorage shall not count as laytime or time on demurrage except to the extent that the discharging of the Coal is carried out concurrently.
- 4.1.6 Duration of breakdown of ship's cranes during discharging operation shall not be counted as laytime. The time of breakdown of ship's cranes shall be calculated on a pro rata basis in accordance with the number of Vessel's cranes in breakdown to the total number of Vessel's cranes.
- 4.1.7 Laytime or time on demurrage shall cease to count after discharging of cargo at the anchorage is completed. Time taken for the initial and final draft surveys shall not count as laytime or time on demurrage.
- 4.1.8 Any breakdown of discharging vessels' crane(s) will have no reference to laytime of any other vessel at the anchorage discharging or waiting to discharge.
- 4.1.9 Weather delays recorded in the SOF of the vessel under discharging shall be deducted from the laytimes of the vessels waiting for discharging, unless already on demurrage.

##### **4.2. Demurrage and Dispatch for the Mother Vessel at Port of Puttalam**

- 4.2.1 Demurrage rate for each vessel will be declared by the shipping partner of the **LCC at the time of nomination of ship**. The rate will be on a par with the market levels and will be a justifiable based on the Average Trip Charter Rate per day for Supramax / Panamax vessels, as reported in the Shipping Intelligence Weekly Reports published by the Clarkson Research Services Limited, as the Index for charter market and Platts Monthly Bunker wire as the Index for

bunker prices. Both indices shall be for the preceding month to the month, which includes the first date of each laycan.

- 4.2.2 Vessel demurrage, at the rate declared as above, attributable to delays in unloading shall be as per the laytime calculations prepared as per the Statement of Facts and should be agreed/accepted by the all parties before payment.
- 4.2.3 In the event that the unloading of a shipment of coal is completed before the expiry of the laytime allowed, Shipping Partner will pay to the **LCC dispatch money at 50% of the demurrage rate** for all laytime saved as per the laytime calculations.
- 4.2.4 If unloading of vessels at the anchorage or unloading of barges at the Jetty of the Lakvijaya Power Station is interrupted due to bad weather (including typhoon, strong wind, raining, high wave etc.) and due to any breakdown of discharging vessels' crane(s), any time lost shall not counted as laytime.
- 4.2.5 In case, unloading of vessels at the anchorage is interrupted due to operational reasons related to barges, machinery breakdown of the Jetty of the Lakvijaya Power Station etc., any time lost will count as laytime.
- 4.2.6 The Statement of Facts (SOF) shall be prepared by the vessel agent and shall be signed by the Master of the vessel, supervisor of stevedores, shipper's agent / representative on board, as applicable.

#### **4.3 Demurrage and Dispatch of Lightering Service Provider**

- 4.3.1 Method of calculation of Demurrage and dispatch of the Mother Vessel will be as per the above 4.1 and 4.2 of the Section 6 Conditions of the Contract. LCC shall notify demurrage and dispatch rates of the mother vessel to Lightering Service Provider when declaring/nominating each vessel details.
- 4.3.2 If, mother vessel has incurred demurrage after expiry of the laytime for any reason, dispatch will not be paid, even if the Lightering Service Provider has discharged any vessel within a time period less than the allowed time for the discharge.
- 4.3.3 Lightering Service Provider shall be solely responsible for mother vessels' demurrages attributable due to any operational reason related to lightering service provider and to pay amount of **one hundred Ten percent (110%) higher the demurrage rate** of the particular vessel, to the LCC. Demurrage incurred due to overlapping arrivals of the vessels will not be on Lightering Service Provider's account. However, if any overlapping of vessels occurs due to the fault of Lightering Service Provider, demurrage so incurred shall be on the account of Lightering Service Provider and shall be payable by Lightering Service Provider to LCC on above given rate.
- 4.3.4 The lightering service provider is exempted from any demurrage attributable due to the delays at the Jetty of the Power Station.
- 4.3.5 The method of assessment of demurrage liability attributable to the Jetty of the Lakvijaya Power Station shall be as per the Method Statement given below

Step 1: If the average unloading rate from the vessel at the anchorage is 10,000 MT PWW in 24 consecutive hours SSHINC, as per the SOF and the laytime calculation, there will not be vessel demurrage.

Step 2: If the average unloading rate from the vessel at the anchorage is less than 10,000 MT PWW in 24 consecutive hours SSHINC and the vessel has incurred demurrage, to follow Step 3 to ascertain whether there was any delay at the Jetty.

Step 3: Laytime for the Jetty will be calculated as per the attached Sample Jetty Laytime calculation sheet. Discharge rate at the Jetty is 13,200 MT per weather working day of 24 consecutive hours SSHINC subjected to the availability of loaded barges at jetty.

1. "Used Time" of each barge = the time from 'All Fast' at the Jetty under the unloading cranes by CEB to the "Time of Completion of Discharging" of the particular barge at the Jetty
2. Total "Used Time" at the Jetty = the sum of "Used Time" of each and every barge at the Jetty
3. Total "Allowed Time" at the Jetty = Quantity as per the B/L divided by 10,000 MT
4. Any period of bad weather, which interfered discharging at the Jetty or would have interfered discharging at the Jetty, if the discharging was in progress, that period will be deducted from the "Used Time"
5. If the Jetty has achieved average 13,200 MT per day during the total "Allowed Time" after deducting weather delays, LCC will not be responsible for vessel demurrage and the vessel demurrage incurred, if any, will be on Lightering Service Provider's account.
6. If the Jetty has NOT achieved average 13,200 MT per day during the total "Allowed Time" after deducting weather delays, LCC will be responsible for vessel demurrage ONLY TO THE EXTENT OF DELAY IN DISCHARGING AT THE JETTY. Lightering Service Provider shall be responsible the balance demurrage, if any.
7. Laytime running at the Jetty shall cease at the time of ceasing of discharging of the mother vessel at the anchorage.

4.3.6 In the event that the unloading/discharging of coal in a vessel at is completed by the lightering service provider, before the expiry of the laytime allowed, The LCC will pay to the Lightering Service Provider **Ninety percent (90%) of the Dispatch money** of which the LCC received for laytime saved as per the laytime calculations of the particular vessel.

4.3.7 No demurrage/detention charges for SPBs s shall be payable to Lightering Service Provider under any circumstances by LCC. Further, the LCC shall not pay any dead freight for the SPBs, to Lightering Service Provider.

Note:

- The principle of 'once on demurrage, always on demurrage' shall apply for mother vessels even under force majeure situations.
- In calculation of mother vessel demurrage at the anchorage, weather delays and any delay due to crane breakdowns will be deducted from the laytime used, as recorded in the Statement of Facts.
- Master of the vessel shall tender Notice of Readiness (NOR) any time day and night Saturday, Sunday, holidays including, by telefax/email, after arrival at the designated transshipment anchorage in Puttalam port, whether in free pratique or not, to LCC with copy to Lightering Service Provider. Laytime shall commence after 12 hours Turn Time after tendering of NOR.



- Mother vessel laytime shall cease at the time of the completion of discharge

#### **4.4 Incentive payment to lightering service provider**

- 4.4.1 If any vessel is incurring demurrage due to a reason beyond the control of the Lightering Service Provider (overlapping of vessels at Puttalam anchorage, limited berthing facility at Puttalam Anchorage, etc.), the lightering service provider shall make his maximum effort to save/reduce incurring demurrages to the mother vessel.
- 4.4.2 As an incentive for this saving or reducing demurrage, the service provider may claim an **Incentive payment** at a rate of **Twenty five percent (25%) of the Demurrage Rate** of the mother vessel for the time that the Lightering service provider saved from recalculated allowed time from the possible time of starting unloading of such vessel.
- 4.4.3 This Incentive payment is not applicable when the Lightering Service Provider is entitled to receive the dispatch money as per the clause 4.3.6 of Conditions of the Contract.

### **5. Other terms and Conditions**

#### **5.1 Boat Note**

Lightering Service Provider shall issue a Boat Note for each and every SPB indicating the approximate weight of the coal loaded in to each SPB signed by the Stevedoring Supervisor of Lightering Service Provider and Chief Officer of the mother vessel. The daily total quantity lightered by all SPBs shall tally with the daily total quantity discharged from the mother vessel as per the draft survey report prepared by the Chief Officer. The final total of quantities of coal loaded in each SPB shall tally with the B/L quantity.

#### **5.2 Minimum DWT**

The minimum Deadweight (DWT) of the SPBs shall be 1550 MT, each and the aggregate DWT of all the SPBs shall be 12,000 MT at any time. In the event the minimum aggregate DWT is not available for the lightering operations at the port of Puttalam, a penalty of USD 500 per day pro rata per SPB, which is out of operation, shall be deducted from the payment of lightering charges due to Lightering Service Provider by LCC, after a grace period of 08 hours required for any repair of SPB/s.

#### **5.3 Total DWT**

Lightering Service Provider shall ensure that suitable SPBs in agreed numbers and total DWT to discharge at the agreed discharge rate mentioned below shall be ready in all respect for undertaking stevedoring and lightering operations in the Puttalam port 03 days before arrival of the first Mother Vessel at the port of Puttalam on or around start date, which will be notified to the parties in advance and due course.

#### **5.4 Discharge Rate**

Discharge rate at the anchorage on 'free-out' basis from Mother Vessel to be achieved by Lightering Service Provider shall be 10,000 MT using ship's Cranes per WWD of 24 consecutive hours Saturdays, Sundays and holidays included (SSHINC) except on major holidays in Sri Lanka described below. Minimum grab capacity of the Mother Vessels will be 04 x 10 CBM.

Minimum discharge rate shall not be less than 10,000 MT PWW of 24 consecutive hours SSHINC.

Discharge rate at the Jetty of the Power Station on 'free-out' basis to be achieved by the receiver CEB shall be 13,200 MT PWW of 24 consecutive hours SSHINC except on major holidays in Sri Lanka mentioned above in above 1.10.6.

### 5.5 Holidays in Puttalam Port

01 (One) day for National Day	4th February
01 (One) day for Holy Prophet's Birth Day	to be declared each year in April
01 (One) day for Sinhala/Tamil New Year	to be declared each year in April
01 (One) day for May Day	1st May
01 (One) day for Vesak Full moon Day	to be declared each year in May
01 (One) day for Christmas	25th December

### 5.6 Mooring/Unmooring Gang

The mooring/unmooring gang at the Jetty engaged by LCC/CEB will support the mooring of SPBs when Lightering Service Provider berth SPBs safely at the Jetty; and unmooring of SPBs after completion of discharging of barges.

### 5.7 Gantry Cranes

The Jetty shall have minimum 02 gantry cranes at the discharging berth.

### 5.8 Repairs and Maintenance

All repair and maintenance costs of SPBs and pay-loaders to be deployed by LIGHTERING SERVICE PROVIDER shall be on Lightering Service Provider's account. All expenses on repairs & maintenance of SPBs, fuel, lubricants, fresh water, mooring ropes, mobilization /de-mobilization costs to/from Sri Lanka, agency fees, costs of food and lodging for the staff / employees of Lightering Service Provider etc. shall be on Lightering Service Provider's account.

### 5.9 Cleaning Holes

Lightering Service Provider shall clean all the mother vessel holds after completion of discharging of each mother vessel to the satisfaction of Masters of vessels using their pay-loaders/operators.

Lightering Service Provider shall clean all the hatches of mother vessels after completion of each and every discharging operation to the satisfaction of the Master of the mother vessels.

### 5.10 Payloaders and Excavators

At least three (3) numbers of Payloaders required for the discharging operation at anchorage shall be engaged by Lightering Service Provider at any time in order to achieve the agreed discharge rate. In the event 03 Payloaders are not available for the lightering operations at the port of Puttalam, a **penalty of USD 200** per day pro rata per Pay-loader, which is out of operation, shall be deducted from the payment of lightering charges due to Lightering Service Provider by LCC, after a grace period of 06 hours required for any repair of Pay-loaders/s.

At least one (1) number of Excavator of suitable size, to be used for the breaking the sticky cargo during discharging operation at anchorage shall be engaged by Lightering Service Provider at any time in order to achieve the agreed discharge rate. In the event minimum number of excavators are not available for the lightering operations at the port of Puttalam, a **penalty of USD 100** per day pro rata per Pay-loader, which is out of operation, shall be deducted from the payment of lightering charges due to Lightering Service Provider by LCC, after a grace period of 06 hours required for any repair of Pay-loaders/s

Lightering Service Provider shall provide all crew engaged on SPBs and Sri Lanka Govt. officers, agents, surveyors etc. going on board for arrival/departure formalities with necessary safety equipment/appliances.

It is the responsibility of Lightering Service Provider to deploy a suitable number of pay-loaders to collect and pile up the coal inside the hatches of the mother vessels and SPBs, to facilitate the grabs of the cranes to pick up the cargo.

#### **5.11 SPBs/Class/Flag registry**

Under Section 114 of the Merchant Shipping Act No. 52 of 1971, no foreign-flagged vessel shall be allowed to trade in Sri Lanka waters unless the necessary exemption is granted by the Minister in charge of the subject. Therefore, the selected Lightering Service Provider shall either register the SPBs under the Sri Lankan flag in a timely manner or obtain the required exemption upon signing the Agreement and prior to commencing lightering operations.

The Lightering Service Provider shall ensure that all SPBs are classed under one of the IACS (International Association of Classification Societies) members and shall maintain valid Class, statutory and other trading certificates throughout the entire period of lightering operations. These certificates shall meet the satisfaction of the relevant authorities in Sri Lanka, including the DGMS, Sri Lanka Ports Authority (SLPA), Sri Lanka Navy (SLN), LCC, CEB, or any other regulatory agency in the country.

The Lightering Service Provider shall be responsible for obtaining ship registration and relevant approvals from the DGMS/Ministry of Ports, Shipping, and Aviation to operate the SPBs in the port of Puttalam. Additionally, ISPS requirements as per the Sri Lanka Navy and the requirements of Sri Lanka Ports Authority (SLPA) shall be fulfilled, and the necessary approvals shall be obtained prior to entering the port of Puttalam.

#### **5.12 Payment terms for lightering charges**

Lightering Service Provider shall invoice LCC after completion of lightering of each mother vessel at the Jetty with supporting documents and LCC shall effect the payment within 15 working days after receiving the invoice from Lightering Service Provider and finalized by both parties based on the independent Draft Survey Certificate issued at the Discharge port appointed by the LCC. No advance payments of lightering charges will be made by LCC to Lightering Service Provider.

Payment will be made one of the following methods as agreed by the both parties,

- By an irrevocable, unconfirmed documentary Letter of Credit opened in a commercial bank of Sri Lanka, or
- By a Telegraphic Transfer (TT).

All bank charges outside Sri Lanka, if any, will be for the account of the Lightering Service Provider.

### 5.13 Insurance Cover

All vessels should have valid standard P&I Insurance covering following liabilities throughout the entire period of operation, cost of which shall be on Lightering Service Provider's account.

- Wreck removal
- Port/jetty property damages liabilities
- Oil pollution
- Crew liabilities
- Cargo liabilities
- Third party liabilities

### 5.14 Agency Matters

LCC will not attend to agency related matters of Lightering Service Provider unless LCC is appointed under a separate agency agreement and LCC shall not pay any other payments such as any repairs/maintenance expenses, fuel, lubricants, fresh water, mooring ropes, fenders of SPBs, any surveyor requirements of SPBs etc. to Lightering Service Provider, other than the agreed all inclusive lightering rate.

### 5.15 Supply of Fuel to SPBs

Lightering Service Provider shall make their own arrangements to supply fuel to the SPBs by road bowsters or by bunker barges without disrupting the operations at the Jetty at their time risk and expense, subject to prior written approval of the jetty owners/operators – CEB.

### 5.16 Arrival & Departure Formalities

Lightering Service Provider has to facilitate passage to/from mother vessels for the authorities (Customs/Immigration/Sri Lanka Navy / Draft Surveyor and mother vessel agents etc.) for carrying out arrival/departure formalities and as and when necessary, free of charge all the time, on arrival/departure and as and when required, with necessary P&I cover for such passengers.

Lightering Service Provider shall provide all crew engaged on SPBs and Sri Lanka Govt. officers, agents, surveyors etc. going on board for arrival/departure formalities with necessary safety equipment/appliances.

### 5.17 Replacements of SPBs

Lightering Service Provider shall immediately replace SPBs, if any of the SPBs become technically not fit to undertake the lightering operation during the period of operation, with suitable substitute SPBs having valid Class/trading certificates, H&M and P&I insurance as mentioned in other Clauses 6.15 in this agreement.

### 5.18 Technical Suitability of the SPBs

Lightering Service Provider shall guarantee that the SPBs to be deployed shall be suitable for the location/weather/operation/Jetty in all respect such as (DWT / LoA / Beam / Breadth / Depth / Draft / Air Draft / speed etc.) before mobilization. LCC shall not take any responsibility on the suitability of SPBs for the intended operation. However, LCC may inspect the technical condition of SPBs by an inspection / survey by LCC surveyors before mobilization at LCC's discretion. Any inspection of SPBs

by LCC appointed surveyors shall not absolve Lightering Service Provider of their responsibility to ensure the suitability of SPBs in all respect for the intended operation at the port of Puttalam, Sri Lanka.

#### **5.19 Vessel Schedules**

About 06 - 07 vessels are scheduled to arrive at the Puttalam port anchorage each month with a capacity of about 65,000 MT +/- 10%. It is the responsibility of Lightering Service Provider to carry out the lightering operation during the allowed laytime period in order to avoid demurrage.

Lightering Service Provider shall be prepared to discharge 02 vessels simultaneously with sufficient gangs in the event that the discharging facilities at the Jetty is improved during the tenure of the Agreement, enabling to discharge 02 vessels in tandem with a view to minimizing vessel demurrage.

If there is one or more vessel is/are waiting at anchorage for the turn to discharge, and the vessel under discharging operation has completed 03 holds out of 05 holds or 05 holds out of 07 holds; the idling 02 gangs shall be shifted to the waiting vessel to commence discharging in order to minimize / save time.

#### **5.20 SLPA Charges**

Sri Lanka Ports Authority charges, if any, on SPBs at the port of Puttalam shall be borne by Lightering Service Provider.

#### **5.21 SPBs' Crew**

All officers/ratings who are serving on board SPBs should have necessary valid visas and other competency certificates and Lightering Service Provider shall engage the minimum manning requirement as per the rules/regulations of Immigration and Emigration Dept. of Sri Lanka, DGMS, Sri Lanka and STCW requirements.

#### **5.22 The unloading cranes of the mother vessels**

The unloading cranes of the mother vessels shall be operated by qualified personnel employed by Lightering Service Provider and when discharging, Lightering Service Provider shall ensure that unloading grabs shall be lowered very close to the bottom of the barge to avoid spillage or windblown coal dust.

#### **5.23 Laws/Rules/Regulations**

Lightering Service Provider shall comply with all the rules/laws/regulations of the Government of Sri Lanka and the instructions, which may be given by LCC/CEB/any other regulatory agency from time to time during the operation.

Lightering Service Provider shall abide by all safety and any other instructions that will be issued by CEB (who is the owner and operator of the Jetty), from time to time.

#### **5.24 Statement of Facts (SOF)**

Lightering Service Provider shall maintain Daily Operational Log sheets for the Jetty and the anchorage separately and an authorized signatory from Lightering Service Provider shall sign Daily Operational

Logs, on behalf of the Lightering Service Provider and Statements of Facts to be prepared by the mother vessel agent, which shall be final and binding on all parties.

## 6. Stevedore Damages

LCC shall not be responsible for stevedore damages which the mother vessels may sustain at the port of Puttalam. Lightering Service Provider shall indemnify and hold LCC harmless from any and all losses, claims, actions, costs, expenses, judgments, subrogation, or other damages resulting from injury to any person or damage to property of whatsoever nature of any person arising out of or incident to the performance of the work to unload cargo into the SPBs. Any time lost due to stevedore damage shall be on Lightering Service Provider's account.

If Lightering Service Provider refuses to accept the responsibility of the stevedore damage when the vessel Master issue any "Damage Report" or "Note of Protest" against stevedores, Lightering Service Provider may arrange an independent surveyor to settle the dispute before vessel departure. Any time lost due to waiting for surveyors or the survey of the damage/s shall be on account of Lightering Service Provider, if the surveyor is appointed by Lightering Service Provider.

Lightering Service Provider shall comply and act within the latest guidelines/regulatory frame work enforced by the environmental or any other national or international authority or LCC or LCC or CEB to prevent/minimize environmental pollution and health hazards. The implementation costs, if any, in this connection shall be on Lightering Service Provider's account. Lightering Service Provider shall be vigilant of such rules and regulations and Lightering Service Provider shall promptly comply with such rules/regulations.

No escalation of stevedoring and lightering rate shall be made during the contract period.

## 7. Lightering Rate Adjustment Formula

The initial Base Rate for lightering shall be adjusted depending on the domestic Diesel price in Si Lanka as follows. The Diesel price of Ceylon Petroleum Corporation is considered as the Index for bunker fuel for SPBs.

Base month will be **the Month, one Month prior to the Month on which the deadline of submission of bid falls.**

Whenever the Diesel price is revised (upward or downward) more than 3%, lightering rate shall be adjusted accordingly based on the proportion of fuel cost in the overall cost.

The current quantum of fuel cost of SPBs is estimated to be 10 % of the overall cost.

Accordingly, Base Rate for lightering shall be revised as per the following formula depending on domestic Diesel price:

BR = Initial Base Rate for lightering

A = Base Price of Diesel Rs. .... per litre

C = Actual Average Price of Diesel in the preceding month to the month which includes the Lightering Completion Date of the relevant shipment

BC = 0.10

BF = Bunker Adjustment Factor

RA = Applicable Barging Rate  
BF = [(C-A)/A]\*BC  
RA = BR\*[1+BF]

## 8. Assignments and Modifications

Neither party shall assign the whole or any part of the contract or any benefit or interest in or under the contract.

Any alternation or amendment or modification shall be on mutual consent of both parties and it shall be reduced to writing.

## 9. Force Majeure

### 9.1 Definition

An Event of Force Majeure shall mean any circumstances not within the reasonable control, directly or indirectly, of the party affected, but only if and to the extent that (i) such circumstances despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by such party, (ii) such event materially adversely affects the ability of the affected party to perform its obligations under the Agreement, and the affected party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the affected party's ability to perform its obligations under the Agreement and to mitigate the consequences thereof, (iii) such event is not the direct or indirect result of the failure of such party to perform any of its obligations under the Agreement and (iv) such party has given the other party prompt notice describing such events, the effect thereof and the actions being taken in order to comply with this Clause provided that Events of Force Majeure shall not include strikes, lockouts or other industrial action by non-manual personnel of the party seeking to invoke that Event of Force Majeure or of such party's agents or contractors.

### 9.2 Effects of force majeure

Except as otherwise provided herein or may further be agreed between the parties, either party shall be excused from performance and shall not be construed to be in default in respect of any obligations hereunder for so long as failure to perform such obligations shall be due to an Event of Force Majeure.

### 9.3 Certain delays not excused

Notwithstanding that an Event of Force Majeure otherwise exists, this Clause shall not excuse:

- (a) Late payment of money;
- (b) Late performance by Service Provider or its contractors or any subcontractor to its contractors;
- (c) Delays resulting from reasonably foreseeable unfavourable weather or reasonably foreseeable unsuitable ground or sea conditions unless the affected party has taken reasonably prudent steps to prevent or mitigate the effects of such conditions.

### 9.4 Notice of force majeure; procedure

As soon as possible following the commencement of any Event of Force Majeure, if either party desires to invoke such Event of Force Majeure as a cause for delay in the performance of any obligation (other than the payment of money) hereunder it shall advise the other party in writing of such date and the

nature and expected duration of such Event of Force Majeure. As soon as possible and in any event within twenty-four (24) hours following the termination of such Event of Force Majeure, the party having invoked such Event of Force Majeure as a cause for such delay shall submit to the other party reasonable proof of the nature of such delay and its effect upon the time of performance. The parties;

- (a) shall make all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of any delay occasioned by any Event of Force Majeure including recourse to alternate acceptable sources of services, equipment and materials; and
- (b) shall use their best efforts to ensure resumption of normal performance after the termination of any Event of Force Majeure and shall perform their obligation to the maximum extent practicable agreed between the parties.

**10. Notices**

Any written notice requiring to be served hereunder shall be sufficiently served by sending such notice by e-mail or fax or courier or registered mail addressed to and forwarded to the party at its last known address.

With Respect to the Lightering Service Provider the contact information is:

.....

With Respect to the LCC the contact information is:

.....

Lanka Coal Company (Private) Limited.  
51/3 Suranimala place, Off-dutugemunu street, Dehiwala, Sri Lanka.

Tel: +94-11-2824681 / +94-11-2824682

Fax: +94-11-2824689

Email:

**11. Confidentiality**

The terms of the Agreement, any information provided by one party to another in the course of negotiation of the Agreement or any further negotiations among the parties, and any further terms agreed among the parties (collectively the Confidential Information) shall remain confidential to the parties and shall not be disclosed, or used otherwise than for the performance of the parties respective obligations under the Agreement, without the specific written agreement of both parties provided that a party may disclose the Confidential Information to the extent required by law.

**12. Applicable Law**

This Agreement shall be governed only by the laws of the Democratic Socialist Republic of Sri Lanka under Sri Lankan Jurisdiction.

**13. Arbitration**

Any dispute under or arising out of this Agreement shall be referred to a single arbitrator in Sri Lanka in accordance with the Sri Lankan Arbitration Act No 11 of 1995 or any statutory modification or re-enactment thereof for the time being in force.



## 14. Termination

This Agreement may be terminated by giving thirty (30) days' notice by either party, upon the occurrence of an Event of Default by the other party provided that any such termination may not occur if the circumstances on the basis of which the notice of termination is given is altered, cured or remedied within the termination date specific in such notice.

If the Agreement is terminated due to Service Provider's breach, Employer will encash the Performance Security and will cancel all the payments after the termination. In addition, the Service Provider shall also indemnify Employer for any expenses or losses thus incurred.

If the Agreement is terminated due to Employer's breach, Employer shall, release the Performance Security forthwith and Service Provider shall not refund any payments after the termination. In addition, the Employer shall also indemnify Service Provider for any direct expenses or losses thus incurred.

LCC also retains the right to terminate the barging contract by giving thirty (30) days or lesser Notice under any/all circumstances in the sole discretion of LCC owing to the inefficient or lethargic conduct of the Lightering Service Provider which does not measure up to the exigencies of business & requirements of ship unloading which affects coal deliveries to the plant or puts LCC at risk of ship Demurrage at discharging port.

## 15 Failure to Perform

### 15.1 Delays and Failure to perform

If the Service Provider fails to perform the operation owing to any reason other than acceptable Force Majeure situation he shall be liable for all consequent losses that may be suffered by LCC owing to such non performance inclusive of vessel demurrages etc. the Service Provider shall pay to the Employer, by way of Liquidated Damages, an amount equal to such losses suffered by the Employer.

In the event that the delays occurred in more than two (2) occasions (shipments) exceeding s-even (07) days, the Employer reserves the right to terminate the Agreement considering it as Lightering Service Provider's Default under the provisions of the Clause 3.11.

## 16 Warranties and Covenants

### 16.1 Warranties by Employer

The Employer hereby represents and warrants to the Service Provider that:

- (a) It is a duly incorporated company with limited liability and validly existing under the laws of the Democratic Socialist Republic of Sri Lanka;
- (b) The documents which contain or establish its constitution include provisions which give power, and all necessary corporate authority has been obtained and action taken, for it to sign and deliver, and perform the obligations contemplated in, the Agreement and the Agreement constitutes valid and binding obligations of it enforceable in accordance with the terms hereof except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting creditors' rights generally;
- (c) Neither the signing and delivery of the Agreement nor the performance of any of its obligations hereunder does or will contravene or constitute a default under, or cause to be exceeded any limitation on it or the powers of its directors imposed by or contained in:

- (i) Any law by which it or any of its assets is bound or affected;
- (ii) Any document which contains or establishes its constitution; or
- (iii) Any agreement to which it is a party; and,

**16.2 Warranty Against Contingent Fees and Benefits**

Service Provider represents and warrants that no officials or employees of the Government of Sri Lanka, including any subdivision or branch thereof, no employees of the Employer and no consultants (or employees of a consultant) retained by the Employer whose services are in any way related to Employer’s selection have been or will be admitted, directly or indirectly, to any share or part of the Agreement or to any benefit that may arise therefrom. Breach of this warranty will subject Service Provider to penalties according to the laws of Sri Lanka as well as give Employer the right to rescind, cancel or terminate the Agreement without liability, holding Service Provider liable for any and all resulting losses, damages and costs, and to deduct from the contract price, or otherwise recover, the full amount of consideration or benefit to which any party has been admitted in breach of this warranty.

**17 Events of Default**

**17.1 Service Provider Events of Default**

Each of the following events, acts, occurrences or conditions shall constitute a Service Provider Event of Default.

- (a) A breach of any material term(s) of the Agreement;
- (b) Any unexcused failure by the service provider to perform lightering operations for a consecutive period of Seven (07) days commencing from the Notice of Readiness (NOR) given by the Master of the vessel
- (c) The Service Provider ceases to possess all necessary licences, class certificate and Flag Registration etc. for SPBs
- (d) The ownership or control of the Service Provider or of an intermediate or the ultimate holding company of the Service Provider passes to a third party which is unacceptable to the Employer, if in the opinion of the Employer, that the change will impact on the service provider’s ability to perform the Agreement. For the purposes, none of the following shall of itself constitute a change in ownership or control, which is unacceptable to the Employer:
  - I. the sale of a minority shareholding such that the acquirer obtains a total holding of not more than 20 per cent of the issued equity share capital of the relevant company;
  - II. the sale of shares in the relevant company to the public by way of a public offering;
  - or,
  - III. the transfer of shares in the Service Provider between persons who are shareholders of the Service Provider at the date of the Agreement or a transfer of shares in the Service Provider to any affiliate of any such person, provided always that such transferee shall not cease to be an affiliate of any such person unless by not later than the time the transferee ceases to be such an affiliate it shall have retransferred the shares in the Service Provider to a person which is an affiliate of such person;

**17.2 Employer Events of Default**

Each of the following events, acts, occurrences or conditions shall constitute a Employer Event of Default:

- (a) A breach of any material term(s) of the Agreement;

- (b) The Employer fails to pay when due any amounts required to be paid to the Service Provider under the Agreement and such failure continues for thirty (30) days following -the Service Provider's demand for such payment;
- (c) Plant is generally suspended or abandoned for a period of 365 consecutive days, in each case other than to the extent that such failure to commence, suspension or abandonment is attributable to an Event of Force Majeure.

**18 Consequences of Default**

The Employer may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Service Provider, terminate the contract in whole or part (at the option of the Employer) if:

The Service Provider fails to perform lightering operation within the time period(s) specified in the Contract or any extension thereof granted by the Employer; or (b) the Service Provider fails to perform any other obligation(s) under the Contract.

In the event the Employer terminates the contract in whole or in part, pursuant to above, the Employer may obtain lightering services, upon such terms and in such manner as it deems appropriate, and the service provider shall be liable to the Employer for any excess costs for such similar service. However, the service provider shall continue performance of the Contract to the extent not terminated.

The aforementioned right of termination shall be without prejudice to any other rights and remedies that the Employer has under the Contract or in law including but not limited to claiming liquidated damages on account of delay performance of lightering operation. Further, any termination of the Contract shall be without prejudice to any rights and remedies that have accrued prior to the termination of the Contract.

**19 Limits of Liability**

**19.1 No Consequential Loss**

The liability of either party in respect of any claim brought by the other based on a failure of the first party to fulfil its obligations under the Agreement shall be limited to liability for loss directly suffered by the party aggrieved. Such liability shall exclude loss of profit and expectation of profit and all indirect or consequential loss or damage to the party aggrieved.

**20 Site Visits to Other Operational Sites of the Service Provider**

The Employer and its designated representatives shall be entitled on reasonable notice to make site visits to the anchorage ports and each of the Service provider's other operation sites to observe the Service Provider's operations. The Service provider agrees to co-operate with such site visits and provide all such assistance and information to the personnel engaged in such site visits as those persons may reasonably expect.

**21 Confidentiality**

The terms of the Agreement, any information provided by one party to another in the course of negotiation of the Agreement or pursuant to Clause 3.18, any further negotiations among the parties, and any further terms agreed among the parties (collectively the Confidential Information) shall remain confidential to the parties and shall not be disclosed, or used otherwise than for the

.....

performance of the parties respective obligations under the Agreement, without the specific written agreement of both parties, provided that:

- (a) A party may disclose the Confidential Information to the extent required by law;
- (b) A party may disclose the Confidential Information to persons providing (or with a view to providing) shipping services, finances or other support to the relevant party to enable it to perform its obligations in relation to the Plant of the subject matter of the Agreement provided that such person is subject to an equivalent obligation or confidentiality.

The provisions of this Clause shall survive any termination of the Agreement.

## **22 Environmental Considerations**

If any change in law shall occur in the applicable environmental laws or guidelines relating to the design, construction, operation or maintenance of the Plant, the Service provider shall be entitled to review the method of operation set out herein. If, having regard to the changed environmental laws or guidelines.

## **23 Performance Security**

The Lightering Service Provider shall furnish a Performance Security in accordance with the clause 10.3 of Section 2: Instruction to bidders (ITB)

## **24 No Assignment**

Except to the extent that a party may agree in writing, the other party shall not assign the Contract or any part of his obligations under the Agreement.

## **25 Mutual Collaboration**

Service Provider and Employer shall recognize that circumstances may arise which have not been foreseen at the signing of the Agreement and agree that they shall use their best efforts to solve any problems due to such unforeseeable circumstances in a spirit of mutual understanding and collaboration.

## **26 Disputes and Arbitration**

If a dispute of any kind whatsoever arises between the Employer and the Lightering Service Provider, then every effort will be made by the parties to settle such dispute amicably before the commencement of Arbitration.

If amicable settlement has not been reached, then all such disputes arising out of the contract agreement shall be dealt in accordance with the provisions of Arbitration Act No. 11, 1995 of Sri Lanka. The language for the Arbitration shall be English and the place of arbitration shall be Sri Lanka. The following procedure shall be followed:

- (a) Any dispute, controversy or claim arising out of or relating to this Contract, or the breach termination or invalidity thereof ["Dispute"] may be submitted by either Party to arbitration for final settlement. Each of the Parties submits to arbitration under this Clause before a panel of three arbitrators under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) as then in force (the "Rules"), as modified by this Clause. The proceedings shall be conducted, and the award shall be rendered, in the English language.

The seat and place of arbitration shall be Colombo, Sri Lanka unless any other location is agreed to by the Parties.

- (b) Each Party shall appoint one arbitrator, and the two arbitrators, so appointed shall appoint a third arbitrator. The third arbitrator shall be the chairman of the arbitral tribunal. If either Party fails to appoint an arbitrator or if the two Party-appointed arbitrators fail to agree upon a third arbitrator, then such arbitrator shall be appointed in terms of the Arbitration Act No. 11 of 1995 or such other law that governs Arbitration proceedings as in force in Sri Lanka.
- (c) Any award rendered by a majority of the arbitral tribunal shall be final and binding and judgment thereon may be entered and may be enforced in any court of competent jurisdiction. Any monetary award shall be made in reasonable time and as the arbitral tribunal may consider appropriate. The arbitral tribunal shall be authorized in its discretion to grant pre-award and or post-award interest as the case may be. Any costs, fees, or taxes incidental to enforcing the award shall, to the maximum extent permitted by law, be charged against the Party resisting such enforcement.
- (d) Subject to right of any Party to obtain any appropriate interim relief from any court of competent jurisdiction, an arbitration award under this Clause shall be a condition precedent to the commencement of action, suit, or claim in any court or other judicial forum.
- (e) Except, as expressly provided in this Contract, pending the award in any arbitration proceeding hereunder (i) this Contract and the rights and obligations of the Parties shall remain in full force and effect and (ii) each of the Parties shall continue to perform their respective obligations, including payment obligations, under this Contract. The termination of this Contract shall not result in the termination of any arbitration proceeding pending at the time of such termination nor otherwise affect the rights and obligations of the Parties under or with respect to such pending arbitration.”

## **27 No Waiver; Cumulative Remedies**

The failure of either Party to enforce at any time any of the provisions of the Agreement, or to require at any time performance by the other Party of any of the provisions thereof, shall in no way be construed to be a waiver of such provision, nor in any way to affect the validity of the Agreement, or any part thereof, or the right of either Party thereafter to enforce each and every provision of the Agreement.

All remedies afforded under the Agreement shall be taken and construed as cumulative and in addition to every other remedy provided for in the Agreement or otherwise available to a Party.

## **28 No Partnership or Agency**

Nothing in the Agreement (or any of the arrangements contemplated hereby) shall be deemed to constitute a partnership between the parties nor, save as may be expressly set out herein, constitute either party the agent of the other party for any purpose.

## **29 Applicable Taxes**

All existing and future levies, withholding and other taxes imposed by any authority and/or Government of Sri Lanka in respect of the source income and remittance to the bidders under the agreement shall be borne and paid by the Lightering Service Provider.

## **30 Costs**

Each of the parties shall pay its own costs, charges and expense incurred in connection with the preparation and implementation of the Agreement and the transactions contemplated by it.

## Section 7: Agreement

### Coal Lightering Service for Lakvijaya Power Plant, Sri Lanka from Jan-2025 to April 2027 (Season 2024-2025, Season 2025-2026 and Season 2026-2027)

Agreement format for stevedoring & Lightering between Lanka Coal Company (Private) Limited,. and

.....

This AGREEMENT ("the Agreement") is made and entered into, for lightering & stevedoring of Coal, on this..... day of ....., 2024 between Lanka Coal Private Limited, duly registered under the Companies Act No. 7 of 2007 of Sri Lanka bearing company registration number ..... and having its registered office at The Chairman, Lanka Coal Company (Private) Limited, 51/3 Suranimala place, Off-dutugemunu street, Dehiwala, Sri Lanka. And ....., a company incorporated and registered under and by virtue of the law of (country), ..... bearing company No. .... and having its registered/principal office at (.....address.....) (hereinafter sometimes known and referred to as "Lightering Service Provider" which term shall where the context so required and admits mean and include the said ..... its successors and permitted assigns) of the second PART WITNESSETH

In consideration of the mutual covenants and agreements made by and between them, the Parties hereby agree as follows:

#### 1. Conditions Precedent

The obligations of Lightering Service Provider to commence lightering operations or the LCC to obtain the lightering services from Lightering Service Provider pursuant to this Agreement shall become effective on the date when the Lightering Service Provider has established the Performance Security (ITB 10.3) within .... days of receipt of the Letter of Acceptance.

#### 2. Terms of the Agreement

The term of the Agreement shall be for a period commencing on the date of the Agreement and ending ....(2 seasons of coal transportation) ....., unless terminated earlier in accordance with the provisions of this Agreement.

Extension beyond the end of the Agreement shall be subject to the mutual agreement of both Parties.

#### 3. Documents Constituting the Agreement

The Following documents shall be deemed to form this agreement and the priority of the documents shall be in accordance with the following sequence.

- (a) This Contract Agreement and the Addendums hereto.
- (b) Performance Security for this contract
- (c) The Letter of Acceptance dated .....and its acknowledgement dated .....
- (d) The Power of Attorney given the Lightering Service Provider to authorize the personal to represent the company for signing the Contract.
- (e) Minutes for Pre-Bid meeting held on .....
- (f) The complete set of Bidding Document issued by LCC on .....
- (g) The bids including Price proposal submitted by you (Bidder's name) dated ..... dully signed by your authorized signatory including Amendments & Clarification issued, if any.

These documents collectively shall be referred to as the Agreement.

If one document constituting part of the Agreement (as such may have been modified, amended or superseded) conflicts with another, the conflict shall be resolved by giving precedence to the documents in the order in which they are listed above unless otherwise specified, addenda to documents shall, in the event of conflict, prevail over the documents themselves and later addenda shall prevail over earlier ones.

#### **4 Lightering location**

Anchorage in the port of Puttalam Sri Lanka within the limit of the Port Area gazetted by Sri Lanka Ports Authority, is around the location of approximately 08o 00' N, 079o 40' E.

Discharging terms at the Jetty shall be "Free-Out."

#### **5 Quantity**

The Volume of coal shall be about ..... MT +/- 10% or as specified by LCC considering the requirements of the end-user Ceylon Electricity Board (hereinafter referred to as CEB).

#### **6 Lightering period and the Lightering rate**

##### **6.1 Period of the Contract**

The periods of this contract shall be from ..... to ..... This agreement may be extended for a further two (02) Seasons at the sole discretion of the Board of Directors of LCC. The Terms, Conditions and the Base Lightering Rate mentioned here in this Agreement shall be valid for the extended Contract Seasons too, if LCC declares its decision to extend the Contract at the discretion of LCC.

##### **6.2 Base Lightering rate (stevedoring and lightering)**

Base Lightering rate payable by LCC to Lightering Service Provider shall be USD ..... per MT on the B/L quantity of each mother vessel, exclusive of all levies and taxes in Sri Lanka.

##### **6.3 Adjustment of Base Lightering rate**

The amount, calculated in accordance with clause 7 of the Conditions of the Contract, for adjustment of fuel price variation shall be added or deducted from the relevant payments as the case may be.

IN WITNESS WHEREOF the Lanka Coal Company (Private) Limited. and Lightering Service Provider. have set their respective Common Seals affixed and respective hands hereto and to others of the same tenor and date at Colombo on this .... day of .....

.....

.....

In the presence of Witnesses:

1.

2.

The Common Seal of .....  
has been affixed hereto in the presence of the,

.....

In the presence of Witnesses: 1.

2.

Information copy - Not for bidding