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**NIT NO:MMTC/BBSR/TARPAULIN/IC/2019-20 DATED: 29/01/2020**

**NOTICE INVITING TENDER FOR TARPAULIN COVER(100% WATERPROOF) ON IMPORTED COAL STACK AT S-19 PORT PLOT INSIDE PPT PREMISES OF MMTC LIMITED & WAGONS OF RAKE DURING DESPATCHES.**

MMTC invites two bid open tender from interested service provider against Tender for Tarpaulin Cover on Imported Coking Coal stack presently at S-19 (28000 Sq mt) Paradip Port Plot for Imported coal of MMTC Limited at Paradip Port month wise as per requirement. The last date of submission of tender is **1500 hrs on 13th February, 2020.**

The complete details of the tender are available at MMTC's website [www.mmtclimited.com](http://www.mmtclimited.com), Govt. website <https://eprocure.gov.in> and C1 website <https://mmtc.eproc.in>. Corrigendum issued, if any, shall be hoisted on websites only as mentioned above.

**Chief Manager (Min)  
MMTC Ltd, Bhubaneswar**

1) **SCOPE OF WORK :**

- a) Covering of imported coking coal stacked at S-19 port plot measuring an area of 28,000 SQM inside Paradip Port Trust premises with 100% waterproof both side laminated 200GSM tarpaulin. The agency will arrange proper covering of each stack at the allotted plot area inside port premises with waterproof tarpaulin, supporting the tarpaulin with long bamboo, strings etc.
- b) Covering of rake wagons of Imported Coking Coal under MMTC with 100% waterproof both side laminated 150GSM tarpaulin. The agency will provide proper Covering of each wagon with waterproof tarpaulin supported with strings, tools and tackles.
- c) The tarpaulins laid on the stack should be supported with long bamboo over the tarpaulin, covering the height of the stacks to prevent it from flying with rise in wind pressure. Bamboos should be placed at a distance of 10' over the stack. Coal in bags may be used as weight over the stack to ensure that the tarpaulin to sustain the wind pressure at Paradip port.
- d) The agency shall arrange the tarpaulin and cover the coal stacks so as to ensure that there is no coal sliding, moisture addition, ground pollution and also to meet the Pollution control board norms.
- e) The tarpaulin should be laid with proper symmetry to ensure that there is no accumulation of rain water on the stack.
- f) All required resources like Tarpaulin sheets, bamboo, coir ropes, tools and tackles and personnel required for the job shall be arranged by the agency at its own cost.
- g) Uncovering and collection of tarpaulin: The Agency will arrange for uncovering of the tarpaulin on siding frontage area during placement of rakes to facilitate evacuation of cargo and loading into wagons and cover the cargo after completion of loading. On an average one rake per two days is expected to be placed for loading. The agency personnel should be ready round the clock basis to uncover the cargo during loading and cover it after completion of loading. In the event of depletion of stack area, the collection of left over tarpaulin (if any) will be done by the agency at his cost. MMTC shall not be responsible for any damage or theft of tarpaulin sheets used for covering the cargo.
- h) All Coal stacks shall be recovered properly after every Rake despatch and photographs of the covered stack shall be sent to us every time by e-mail at pghosh@mmtclimited.com.
- i) The quoted rates are inclusive of purchase of tarpaulin, covering, uncovering during loading, labour charges, tools and tackles etc. Including all the work related to mentioned scope of work.
- j) SAFETY: Safety of the workmen engaged by Agency in connection to this work is the sole responsibility of the agency. The agency shall provide all personal protective equipment (PPE) to the workmen. MMTC shall not be responsible for any mishap/accident/diseases to your personnel/damaged equipments. You shall comply with the Port safety and related Rules/laws/Statues in force.
- k) The Contractor shall be required to post qualified and competent representatives at the loading points / port yard master office round the clock for close coordination with the Port authorities / Stevedores representative for getting timely information of placement of rake for loading and undertake un-Covering of required portion of the stack to facilitate loading. It is the responsibility of the agency to safeguard their tarpaulin sheets during rake loading and post loading operations.

2) **Eligibility Criteria/Documents:**

- a) The contractor have valid license/order to do such work inside Paradip Port Area (Self Certified Copy of License /Order from PPT, Paradip submitted in Tender)
- b) The contractor should have at least 2 (two) year experience of such work in PPT, Paradip (Self certified copy of orders/experience certificate to be submitted in Tender)
- c) Self Certified GSTN Registration certificate along with copies of GST return of last three months(to be submitted in Tender)
- d) (i) The EMD of Rs. 10000/- (Ten Thousand Only) to be submitted in the form of Demand Draft drawn on any scheduled bank (except Grameen/Cooperative banks, Catholic Syrian Bank and United Western bank) payable at Bhubaneswar, favouring MMTC Ltd. or **by** E-Payment to Account No. 10229909115, STATE BANK OF INDIA, Commercial Branch, IDCOL House, Ashok Nagar, Bhubaneswar, India, 751009, ISFC: SBIN0006657. In case of E-payment a signed copy of online statement showing the payment of EMD amount shall be enclosed in place of Demand draft.  
(ii) The interest free EMD of Rs.10000/- (Ten Thousand Only) (shall be returned to unsuccessful bidders after placement of Work Order to L-1 party/Lowest Quotee. The successful bidder has to deposit a Security Deposit of Rs.20000/- (Twenty Thousand Only) only within 3 days of placement of LOI, for which the EMD shall be adjusted (i.e the Party to deposit balance Rs. 10000/- only) & then Work Order shall be issued. The security Deposit shall be refunded without any interest after satisfactory completion of the Contract.
- e) Valid MSME/NSIC waiver Certificate to be submitted when no EMD is submitted by such parties.
- f) The bidders to see that they don't have any dispute(s) with MMTC or don't have any statutory/GST/Service Tax non-compliance(s) in the last five years, lest their bid(s) shall be summarily rejected. Submit the duly signed and stamped Annexure-II.
- g) Bidder shall submit duly signed and stamped all pages and required documents of the tender notice.

3) **Preparation of Bid:** The bidder shall carefully read the entire tender documents before submitting its offer. The Bidder shall prepare its tender in two parts comprising of the following:

**Technical Bid:** To be submitted in physical form with above documents in a sealed Envelop and dropped in Tender Box at MMTC Ltd. (mark the envelope with "Technical Bid" in bold form and clearly mention the bidding party's name.)

**Price Bid: TO BE SUBMITTED IN PHYSICAL OR E-MODE:** If submitted in physical mode, the sealed envelope with only Annexure-I will be dropped in Tender Box at MMTC Ltd, Bhubaneswar along with the Technical Bid. The bidders need to be careful to keep separate sealed envelopes for Technical and Price bids with clearly naming it as "Technical Bid or Price Bid" in bold form and their names written legibly in the envelopes.

The bidders may submit their price bids in electronic mode at MMTC E portal at <https://mmtc.abcpurchase.com>. The bidder shall submit price bid separately as per price bid format enclosed at Annexure I.

## PROCEDURE FOR PARTICIPATION IN E-TENDER.

E-Tender is available on MMTC e-procurement website <https://mmtc.abcprocure.com> for online bidding process. For this, Bidder should have legally valid Class III Digital Signature Certificate from the Licensed Certifying Authority operating under the Root Certifying Authority of India (RCAI), Controller of Certifying Authorities (CCA) of India for submission of their bid on MMTC's e-procurement portal <https://mmtc.abcprocure.com> (a one-time activity).

### Procedure for Obtaining Digital Certificate

The bidder should obtain digital certificate to participate in the tender.

NOTE: Class III Digital Signature Certificate (DSC) is mandatory to participate in e-tendering. Participating bidders have to make sure that they have the valid DSC in their name. If not, they can procure from any License Certifying Authority operating under RCAI or CCA. Minimum time to procure DSC is 5 working days.

### Procedure for Registering in E-Procurement portal

Further, the bidder will have to register with MMTC's E-Procurement portal. The bidder should have a valid user ID to access e-procurement portal of MMTC. For registering, please go to <https://mmtc.abcprocure.com> and follow the directions. After successful submission of registration details, please contact M/s. E-Procurement Technologies Ltd. (EPTL) (as given below) to get your registration activated. In case of any difficulty either mail or talk to the Technical Support Engineer, whose contact details are as under:

Vendor's Queries	Contact Numbers	Mail ID
(Dedicated Helpdesk for MMTC) CO, New Delhi, Mr. Himanshu	+91 9265562826	<a href="mailto:delhi.support@eptl.in">delhi.support@eptl.in</a>
New Applicant/Bidder Registration (Portal Registration), Vendor's ID/Profile Activation, Renewal of Vendor's ID.	+91-(79)- 68136833	<a href="mailto:support@abcProcure.com">support@abcProcure.com</a>
	+91-(79)- 68136850	
	+91-(79)- 68136878	
	+91-(79)- 68136823	
For Only, Technical Assistance related to e-tender or e-auction filling/submitting (Offsite Team)	+91-(79)- 68136849	Mr Pankesh Kumar ( <a href="mailto:pankesh@eptl.in">pankesh@eptl.in</a> ) Fany Shah ( <a href="mailto:fany.shah@eptl.in">fany.shah@eptl.in</a> )
	+91-93745 19729	
	+91-(79)- 68136848	
	+91-(79)- 68136850	

The bidder shall submit Technical Bid/price bid documents before due date and time of tender so as to reach Chief Manager(Minerals) , MMTC Limited, MMTC Limited , Alok Bharati Complex, 7th floor, Sahid Nagar, Bhubaneswar-751007 or may be dropped in tender box before closure of tender. Incomplete offer or offers received after the closing time and date shall not be accepted.

- 4) **Evaluation of Tender:** The Tender will be evaluated on the basis of Lowest rate obtained amongst the qualified bidders as per the schedule of rates (Annexure-I) by taking both prices

quoted together (i.e a + b of Price Bid). The Contract will be awarded to the L-1 bidder/tenderer. If required, negotiation will be held with L-1 bidder only. In case L-1 bidder fails to perform as per Contract/quoted rate, MMTC reserves the right to negotiate with L-2 bidder for performance. Further, the failed bidder will not be considered in any re-tendering if required, alongwith forfeiture of EMD & actions as deem fit.

- 5) **Period of work:** The work order shall be valid for a period of Six (6) months (i.e from February 2020 to July 2020) with an option to extend the work order for further period of six months at the sole discretion MMTC on the same terms and conditions.
- 6) **Measurement:** The total Tarpaulin area covered (Length \* Breadth) will be measured by MMTC officials/IIA appointed by MMTC during the first covering and the same will be used for first monthly payment. In first week of subsequent months, measurement shall be taken, for billing of that month and so on. Regarding Wagon covering works, MMTC Officials/IIA to monitor and check all the wagons for needful.

**Formula for Surface Covered Area:**

- a) Average Length \* Average Breadth of covering area of the plot taken at ground level.
  - b) A minimum of 3 readings in lengthwise & breadth wise to be taken to determine the average length & average breadth of the plot taken horizontally (i.e Height of cargo is immaterial)
  - c) For intermediate /fresh arrival cargo the covering will be treated separately and will continue as per requirement and also with extension if required for billing month-wise.
  - d) Quality of Cover should as per port norms , if any. To remain in good condition and tied with bamboo, strings etc to prevent tosses due to strong wind , water and prevent air pollution.
- 7) **Contract price:** The unit price shall remain firm, fixed and binding on the contractor irrespective of any variation in the quantities of work till the completion of the work order and shall not be subject to any escalation on any account, whatsoever it may be. The Invoices/Billings are to be submitted to SRO, Paradip. The GST element of the bill shall be reimbursed after submission of filed GST return indicating transaction by Party in proper manner.
  - 8) **Taxes & Duties:** Any tax Government levies, duties which MMTC Ltd. requires to deduct by "Law Status", shall be deducted at source. Income tax as applicable shall be deducted from the bills as per Income tax Act and necessary TDS CERTIFICATE SHALL BE PROVIDED TOWARDS SUCH DEDUCTION. GST as applicable shall be paid extra
  - 9) **Payment terms:** The Invoices/Billings are to be submitted to SRO, Paradip. 100% monthly bill amount shall be paid within 15 days of receipt and acceptance of signed Invoice except GST amount, through E-Payment mode subject to verification of statutory documents by SRO, Paradip and RO, Bhubaneswar. The GST amount shall be paid subsequently after submission of GST return showing said tax has already been paid by party.
  - 10) **Statutory Compliance:** Contractor shall ensure strict compliance of all labor law, Minimum wages Act., Payment of wages Act, Industrial Disputes Act., Payment of Bonus Act., Contract (Abolition & regulation Act, PF Acts., Industrial Safety regulations. The contractor shall submit the above required documents to MMTC Ltd as a proof. Contractor is liable to pay PF, leave with wages and Bonus/Performance pay depends upon the profitability to the workers.
  - 11) **Indemnity:** Contractor shall indemnify **MMTC** Ltd. against all losses, damages, adverse claims, litigations, charges, penalties which MMTC Ltd. may be subjected to by reason of the contractor 'performance / non-performance /delay in performance of any or all of the contractual and or statutory obligations undertaken by the contractor under the work order.

- 12) In case of any accident of vehicle or manpower by your vehicle / staff or on any untoward incidence, legal and pecuniary responsibility will lie to the transporter contractor only. The company stands indemnified by transporter and owner of vehicle through contractor.
- 13) **Assignment and Sub-contracting** : Contractor shall not without the consent in writing of MMTC Ltd. unreasonably withheld , assign or transfer the agreement or the benefit or obligations thereof or any part thereof to any other person . Any such placing of sub-orders shall not relieve the contractor from their obligations under the work order.
- 14) **Title & Risk loss:** In case of any damage caused to our company's property/cargo/any third party property due to your negligence or otherwise, and claimed on us, while undertaking the work on our behalf, the cost of repair/replacement of such damage shall be recovered from your pending bills , along with overheads as applicable. All risks of loss or damages to and from the time of taking possession of the cargo hereunder shall be on contractor. Contractor shall be responsible for the insurance of their own vehicle and also be responsible for third party insurance during transportation as per rules.
- 15) **If you fail to cover the required area fully, penalty @ Rs.1/-** per square meter per month will be imposed every time when same will be observed during inspections during the work order period.
- 16) **Cancellation of the work order:** MMTC shall be entitled at any time at its discretion to cancel the work order, owing to any cause, whatsoever by giving 15(fifteen) days notice to Contractor. Upon such termination, Contractor shall not be entitled to any compensation, in addition to the work actually performed by Contractor after such termination, if any.
- 17) **QUOTING OF PRICE(S):**
- a) Tenderers will submit the technical bid in physical format only at the below mentioned address and price bid in physical or online format. Both the sealed envelopes will be put into a larger envelope and submitted physically at MMTC Ltd, 7<sup>th</sup> Floor, Alok Bharati Complex, Sahid Nagar, Bhubaneswar-751007, Odisha, India.
  - b) Tenderers are required to submit their Price Bid only in the prescribed Schedule of rates vide Annexure - I. Price bid should contain no caveat / conditions. Offers to the contrary will stand the risk of getting rejected.
  - c) Tenderers shall submit the self certified copy of all the documents mentioned at Clause (2) Eligibility criteria.
  - d) Tenderers shall submit the signed copy of all the pages of the Tender.
  - e) The agency shall be paid on monthly basis for Tarpaulin cover of Coking Coal plot allotted to Company. GST / Service tax prevailing on the date of scheduled tender opening shall be considered as inclusive of the rates quoted by the tenderer and any variation or new charges, duties and taxes shall be to the account of Contractor. Wherever GST / Service Tax is said to be inclusive or claimed as extra, the same would be paid against GST return document submitted. Else, the component of GST / Service Tax would be computed and deducted from the bills of the Party subsequently.
- 18) **IMPORTANT DATES:**
- |  |   |
|--|---|
| <b>Last date of Submission of Tender</b> | <b>: 1500 hrs of 13th February 2020</b> |
| <b>Tender opening</b>                    | <b>: 1515 hrs of 13th February 2020</b> |
- 19) Mere submission of Tender does not guarantee any order as same is based on competency of Tenderer(s) and merit as per Tender Terms. MMTC also does not guarantee any quantity of coal to be covered at any point of time. Presently one vessel load cargo is available at PPT,

Paradip Plot and dispatches are ongoing. The tarpaulin cover is required for the cargo and not for our PPT Plot, Paradip.

20) MMTC reserves the right to accept/reject any/all tenders without assigning any reason(s) thereof. MMTC also reserves the right to restrict/amend the Contract duration below six months if need be, without assigning any reason(s) thereof. MMTC reserves the right to give order to one or more parties.

#### ➤ FORCE MAJEURE

In case at any time during the existence of the contract, either party is unable to perform in whole or in part any obligation under the contract because of war, hostility, military operation of any character, civil commotions, sabotage, quarantine restrictions, acts of God and acts of Government (including but not restricted to prohibitions of exports & Imports), fire, floods, explosions, epidemics, strikes or any other labour trouble, embargoes, blockages, mobilizations, earthquake, cyclone, plant shut down restrictions or any other unforeseen circumstances beyond the reasonable control of the parties concerned then the date of fulfillment of any obligations shall be postponed during the time when such circumstances are operative.

Any waiver / extension of time in respect of the delivery of any installment or part of the goods shall not be deemed to be waiver/extension of time in respect of the remaining deliveries. If operation of such circumstances exceeds by one month, the affected party will have the right to refuse further performance of the contract in which case neither party shall have the right to claim eventual damages.

The party which is unable to fulfill its obligations under the present contract must within 10 days of occurrence of any of the cause mentioned in the clause shall inform the other party of the existence of the circumstances preventing the performance of the contract. Certificate issued by a Chamber of Commerce of Industry or any other competent authority connected with the case in the country of sellers or the buyers shall be sufficient proof of the existence of the above circumstances and their duration. Non-availability of material will not be an excuse to the Seller for not performing their obligations under the contract.

#### ➤ ARBITRATION

1. All Disputes or differences, whatsoever, arising between the parties out of or in relation to the construction, meaning, scope, operation or effect of this Contract or the validity or breach thereof shall be settled amicably. If however, the parties are not able to resolve them amicably, the same shall be settled by arbitration in accordance with the provisions of Arbitration & Conciliation Act 1996 & Amendments therein and the award made in pursuance thereof shall be binding on the parties. The sole Arbitrator shall be nominated by the General Manager, MMTC Limited, Bhubaneswar.
2. Work under the Contract shall be continued by the Contractor during the arbitration proceedings unless otherwise directed in writing by the Purchaser or unless the matter is such that the works cannot be continued until the decision of the arbitrators or of the Umpire, as the case may be, is obtained and save as those which are otherwise expressly provided in the Contract, no payment due or payable by the Purchaser shall be withheld on arbitration proceeding unless it is the subject matter or one of the subject matter thereof.
3. The venue of Arbitration shall be Bhubaneswar. Only the Courts at Bhubaneswar will have the jurisdiction over any matter/disputes etc. pertaining to and arising out of the Contract.
4. The language of Arbitration shall be in English.

- **DEFAULT IN SERVICE:** In the event of any default in services or non performance of the Contract by the bidder/agency, MMTC reserves the right to forfeit the EMD or security deposit besides taking any action as deemed fit.
- **BANNING OF BUSINESS DEALINGS:** Prescribed format ANNEXURE-II in tender is to be filled up signed and stamped.
- **FRAUD PREVENTION POLICY:**
  1. Commitments of the Bidder(s) / Contractor(s) / Buyer(s) / Vender(s): The Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) shall be bound to take all measures necessary to prevent Fraud and Corruption while dealing with MMTC. They agree and undertake to observe the principles/provisions as laid down in "Fraud Prevention Policy" of MMTC (Full text of which is available on MMTC's website at <http://mmtclimited.com> during their participation in the tender process, during the execution of Contract and in any other transaction with MMTC.
    - a. The Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) shall not, directly or through any other person or firm offer, promise or give or otherwise allow any of MMTCs employee(s) any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind, whatsoever, during the tender process or during the execution of the Contract.
    - b. The Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) shall not enter with other bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process
    - c. The Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) shall not commit or allow any employee of MMTC to commit any offence under the relevant provisions of IPC/Prevention of Corruption Act; further the Bidder(s)/Contractor(s) / Buyer(s)/Vender(s) will not use improperly or allow any employee of MMTC, for purpose of competition or personal gain or pass onto others any information or document provided by MMTC as part of the business relationship, including information contained or transmitted electronically.
    - d. The Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) shall not instigate third person to commit offences/activities outlined in Fraud Prevention Policy or be an accessory to such offences.
    - e. The Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) if in possession of any information regarding fraud/suspected fraud, hereby agree and undertake to inform MMTC of same without any delay.
  2. Disqualification from tender process and exclusion from future contracts : If the Bidder(s)/Contractor(s)/Buyer(s)/Vender(s), before award or during execution has committed a transgression through a violation of Fraud Prevention Policy of MMTC in any other form such as to put their reliability or credibility, in question, MMTC, other than



taking recourse available under law, shall be entitled to disqualify the Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) from undertaking any transaction with MMTC and/or declare the Bidder(s)/Contractor(s)/Buyer(s)/Vender(s) ineligible to be awarded a Contract either indefinitely or for a stated period of time.

3. Damages : If MMTC has disqualified the Bidder(s) from the tender process prior to the award or during execution according to Clause (2), MMTC shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

➤ HOLIDAY- LISTING CLAUSE :

Notwithstanding anything contained in this agreement, MMTCs policy for Holiday- Listing of an Agency mutatis mutandis applies to this agreement and in the event, the agency(s) while discharging its obligations under the Agreement or otherwise, come(s) within the ambit of the said policy, MMTC at its sole discretion reserves the right to suspend/discontinue dealings or take any curative measures with the agency(s) in accordance with the policy in force.

**For MMTC Limited,**

**Chief Manager (Min)  
Authorised Signatory**

**PROFORMA FOR PRICE BID  
(REFER SCOPE OF WORK OF TENDER DOCUMENT)  
SCHEDULE OF RATES**

1. Name of the Tenderer :
2. Address :
- 3.

	Description	Unit	All inclusive rate in Rs. Per SQM of Plot
(a)	Covering of coking coal stacked at S-19 plot/ or any other plot if allotted to Company by PPT inside Paradip Port Trust premises with 100% waterproof laminated 200GSM tarpaulin as per the scope of work mentioned in the tender document.	SQM (Length * Breadth of base of cargo covered in the Plot)	
	Description	Unit	All inclusive rate in Rs. Per Wagon of rake
(b)	Covering of rake wagons containing coking coal with 100% waterproof Laminated 150GSM tarpaulin as per scope of work mentioned in the Tender document.	Rate per Wagon (34.2816SQM)	

N.B : The GST as applicable shall be extra, which shall be payable next month after submission of GST returns by successful bidder (L1) showing amount of GST already paid to department.

.....

Signature of the tenderer with stamp

Further Note:

- i) The quantum of Tarpaulin in SQMT of plot covered multiplied by quoted rate only is payable (GST extra) for "a" above.
- ii) The rates quoted shall be inclusive of all charges, duties and taxes including GST as applicable on the date of quotation for materials, labours, tools, tackles, incidentals etc.
- iii) The quoted price shall be valid for one month from the date of opening price bids for acceptance by MMTC, Bhubaneswar.
- iv) For evaluation of Tender w.r.t "b" above, the quoted rate per wagon shall be taken for 34.2816SQMT (10.713mt \* 3.20mt). However, payment shall be made as per number of wagons covered in rakes (GST extra)

## **INTEGRITY PACT**

Between

**MMTC** Limited hereinafter, referred to as "MMTC"

And

M/s. .... hereinafter referred to as "The Buyer/Vendor/Bidder"

### **Preamble**

WHEREAS, MMTC is an international trading company dealing in export/import/sale/purchase of various commodities.

WHEREAS, MMTC values full compliance with all relevant laws of the land, rules, regulations and the principles of economic use of resources and of fairness/transparency in its relation with its Buyer/Vendor/Bidder. In pursuance, thereto, the following clauses of the Integrity Pact will be applicable and this document shall deem to be an integral part of the Agreement/Contract between us.

In order to achieve the goals. MMTC may appoint an Independent External Monitor (IEM), who will monitor the tender/auction/e-auction/e-sale/sale/purchase process and the execution of the contract for compliance with the principles mentioned above.

### **Section 1 – Commitments of MMTC :**

1. MMTC commits itself to take all necessary measures to prevent corruption and to observe the following principles.
  - a) No employee of MMTC, personally or through family members will in connection with the tender for or the execution of a contract, demand, take a promise for or accept, for himself/herself or third person, any material or non-material benefit which he/she is not legally entitled to.
  - b) MMTC Will during the tender/auction/e-auction/e-sale/sale/purchase process, provide to all Buyer(s)/Vendor(s)/Bidder(s) the same information and will not provide to any Buyer/Vendor/Bidder any confidential/additional information through which the Buyer/Vendor/Bidder could obtain an advantage in relation to the tender/auction/e-auction/e-sale/sale/purchase process or the contract execution.
  - c) MMTC will exclude from the process all known prejudiced persons.
2. If MMTC obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India or if there be substantive suspicion in this regard. MMTC will inform its Chief Vigilance Officer and in addition can initiate disciplinary action.

### **Section 2 – Commitments of the Buyer(s)/Vendor(s)/Bidder(s) :**

1. The Buyer(s)/Vendor(s)/Bidder(s) commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his

participation in the tender/auction/e-auction/e-sale/sale/purchase process and during the contract execution.

- a) The Buyer(s)/Vendor(s)/Bidder(s) will not, directly or through any other person or firm, offer, promise or give to any of MMTC's employees involved in the tender/auction/e-auction/e-sale/sale/purchase process or the execution of contract or to any third person any material or non-material benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - b) The Buyer(s)/Vendor(s)/Bidder(s) will not enter with other Buyer(s) into any illegal agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - c) The Buyer(s)/Vendor(s)/Bidder(s) will not commit any criminal offence under the relevant Anti-Corruption Law of India., further the Buyer(s)/Vendor(s)/Bidder(s) will not use improperly, for purposes of completion or personal gain, or pass on to others, any information or document provided by MMTC as part of the business relationship regarding proposals, plans business details including information contained or transmitted electronically.
  - d) The Buyer(s)/Vendor(s)/Bidder(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Buyer(s)/Vendor(s)/Bidder(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further, all the payments made to the Indian agents/representative have to be in Indian Rupees only.
  - e) The Buyer(s)/Vendor(s)/Bidder(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.
2. The Buyer(s)/Vendor(s)/Bidder(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 – Disqualification from tender process and exclusion from future contracts :**

If the Buyer(s)/Vendor(s)/Bidder(s), before award of contract, has committed a serious transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility as buyer/vendor/bidder into question. MMTC is entitled to disqualify the Buyer(s)/Vendor(s)/Bidder(s) from the tender/auction/e-auction/e-sale/sale/purchase process or to terminate the contract, if already signed, for such reason.

- a) If the Buyer(s)/Vendor(s)/Bidder(s) has committed a serious transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility as buyer/vendor/bidder into question. MMTC is entitled to also exclude the Buyer(s)/Vendor(s)/Bidder(s) from the future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of

transgression, the position of the transgressors within the company, hierarchy of the buyer and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.

- b) If the Buyer(s)/Vender(s)/Bidder(s) can prove that he has restored/recouped the damage cause by him and has installed a suitable corruption prevention system. MMTC may at its sole discretion revoke the exclusion prematurely.
- c) A transgression is considered to have occurred if in light of available evidence no reasonable doubt is possible.

#### **Section 4 – Compensation for Damages :**

1. If MMTC has disqualified the Buyer(s) from the tender/auction/e-auction/e-sale/sale/purchase process prior to the award according to Section 3, MMTC is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
2. If MMTC has terminated the contract according to Section 3, or if MMTC is entitled to terminate the contract according to Section 3, MMTC shall be entitled to demand and recover from the Vendor liquidated damages equivalent to 5% of the Contract value or the amount equivalent to Performance Bank Guarantee whichever is higher.
3. If the Buyer(s)/Vender(s)/Bidder(s) can prove that the exclusion of the Buyer(s)/Vendor(s)/Bidder(s) from the tender/auction/e-auction/e-sale/sale/purchase process or the termination of the contract after the contract award has caused no damage or less damage than the amount of liquidated damages, the Buyer(s)/Vendor(s)/Bidder(s) may compensate only the damage in the amount proved. If MMTC can prove that the amount of the damage caused by the disqualification of the Buyer(s)/Vendor(s)/Bidder(s) before Contract Award or the termination of the Contract after the Contract Award is higher than the amount of the liquidated damages, it is entitled to claim compensation for the higher amount of the damages.

#### **Section 5 – Previous transgression :**

1. The Buyer(s)/Vendor(s)/Bidder(s) to declare that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded and can be terminated for such reason.

#### **Section 6 – Equal treatment of all Buyer(s)/Vendor(s)/Bidder(s) :**

1. MMTC will enter into agreements with identical conditions as the one with all Buyer(s)/Vendor(s)/Bidder(s) without any exception.
2. MMTC will disqualify from the tender process all Buyer(s)/Vendor(s)/Bidder(s) who do not sign the Pact or violate its provisions.

## **Section 7 – Criminal charges against violating Buyer(s)/Vendor(s)/Bidder(s) :**

If MMTC obtains knowledge of conduct of Buyer(s)/Vendor(s)/Bidder(s) or of an employee or a representative or an associate of Buyer(s)/Vendor(s)/Bidder(s), which constitutes corruption, or if MMTC has substantive suspicion in this regard, MMTC will inform the same to its Chief Vigilance Officer and/or appropriate Govt. Authorities.

## **Section 8 – Independent External Monitor(s) :**

1. MMTC appoints competent and credible Independent External Monitor (IEM) for this pact. The task of the IEM is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The IEM is not subject to instructions by the representative of the parties and performs his functions neutrally and independently. He reports to the CMD, MMTC.
3. The IEM has the right to access without restriction to all trade/project related documentation of MMTC. The Buyer(s)/Vendor(s)/Bidder(s) will also grant the IEM, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his trade/project documentation. The IEM is under contractual obligation to treat the information and documents of the Buyer(s)/Vendor(s)/Bidder(s) with confidentiality.
4. MMTC will provide the IEM sufficient information about all meetings among the parties related to the project/contract provided as meetings could have an impact on the contractual relations between MMTC and the vendor. The parties offer to the IEM the option to participate in such meetings.
5. As soon as the IEM notices, or believes to notice, a violation of this agreement, he will so inform the Management of MMTC and request the Management to discontinue or take corrective action, or to take other relevant action. The IEM can in this regard submit NON-BINDING RECOMMENDATIONS. Beyond this, the IEM has not right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
6. The IEM will submit a written report to the CMD, MMTC within 4 to 6 weeks from the date of reference or intimation to him by MMTC and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the IEM has reported to the CMD, MMTC, substantiate suspicion of an offence under relevant Anti Corruption Laws of India and the CMD, MMTC, has not, within the reasonable time taken visible action to proceed against such offence or reported it to its Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner, Govt. of India.
8. The word "IEM" would include both singular and plural.

## **Section 9 – Pact Duration:**

1. This Pact begins when both parties have legally signed it. It expires for the Vendor 12 months after the last payment under the contract, and for all other Bidders, 6 months after the Contract has been awarded.

2. If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by CMD, MMTC.

**Section 10 - Other Provisions:**

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of MMTC, i.e. New Delhi.
2. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
3. If the Vendor is partnership or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

.....  
(For & on behalf of MMTC)  
(Official Seal)

.....  
(For & on behalf of  
Buyer/Vendor/bidder)  
(Official Seal)

Place:.....

Date :.....

Witness 1.....

Name :

Address:

Witness 2.....

Name :

Address:

**PROFORMA OF DECLARATION REGARDING BANNING OF BUSINESS DEALINGS**

A. In case of proprietary concern :

I hereby declare that neither I in my personal name or in the name of my proprietary concern M/s .....which is submitting the accompanying bid nor any other concern in which I am a proprietor nor any partnership firm in which I am or was involved as partner are not currently banned by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce except as indicated below :

(Give particulars of banning of business dealings, in absence thereof mention "NIL".

I hereby do further declare that the following notice(s) have hitherto been issued against proposed action for banning business dealings or the following action for banning business dealings by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce has been taken in my personal name or in the name of any proprietary concern of mine or against any partnership firm of which I was or am the partner.

<b>No &amp; date of show cause notice or notice of banning the business dealings by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce</b>	<b>Period for which business dealing has been banned</b>	<b>Present Status</b>

B. In case of partnership firm :

We hereby declare that neither we, M/s ..... Which is submitting the accompanying bid nor any partner are involved in the management of said firm either in his individual capacity or as proprietor of any concern or as partner of any firm in which he/she was a partner are not currently banned by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce except as indicated below:

(Give particulars of banning of business dealings, in absence thereof mention "NIL".

We hereby do further declare that the following notice(s) have hitherto been issued against proposed action for banning business dealings or the following action for banning business dealings by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce has been taken against the above firm or any partner involved in the management of the firm in his individual capacity or as proprietor of any concern or as partner of any firm in which he/she was a partner of any firm.



No & date of show cause notice or notice of banning the business dealings by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce	Period for which business dealing has been banned	Present Status

C. In case of Company :

We hereby declare that we, M/s.....are not currently banned

by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce except as indicated below:

(Give particulars of banning of business dealings, in absence thereof mention "NIL".

We hereby do further declare that the following notice(s) have hitherto been issued against proposed action for banning business dealings or the following action for banning business dealings by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce has been taken against the us

No & date of show cause notice or notice of banning the business dealings by MMTC or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce	Period for which business dealing has been banned	Present Status

It is understood that if this declaration is found to be false, MMTC shall have the right to reject my / our bid and if the bid has been resulted in contract, the contract is liable to be terminated.

Place :

Signature of Bidder / Supplier

Date :

Name & Designation of the Signatory.