



**A Govt. of India Enterprise**

***Touching Lives, adding value***

(Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road)  
New Delhi – 110 003 (India)

**Tel. NO. 011- 24362200/ Fax No: 011-24366362**

**E-mail: [bddash@mmtclimited.com](mailto:bddash@mmtclimited.com)**

**NOTICE INVITING TENDER**

**NO.: TENDER NO.MMTC/C&HC/15-16/HCC-02**

**DATED: 18/08/2015**

MMTC invites Tender for IMPORT OF 60,000MT +/-5% Australian Origin Hard Coking Coal from interested Overseas Parties in shipment of 60000 MT in October Month. The techno commercial bids and Price bids have to be submitted physically or E-Tender by 1100 Hrs. IST on 03/09/2015

The complete details of the Tender enquiry are available at MMTC's website [www.mmtclimited.com](http://www.mmtclimited.com) or <http://eprocure.gov.in/cppp/>



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TENDER NO.MMTC/C&amp;HC/15 - 16/HCC -02

DATED: 18/08/2015

**SUB: TENDER FOR IMPORT OF 60,000MT +/- 5% HARD COKING COAL (HCC) OF AUSTRALIAN ORIGIN**

1. Invitation of bids from Coal producers owning coal mines/overseas coal suppliers / traders for supply of 60,000 (Sixty Thousand MT) Metric Tonne  $\pm$  5% (including shipping tolerance) of imported freshly mined prime quality washed coking coal (size 0-50mm) of Australian origin to be delivered in October / November **2015 at Paradip Port** . MTPL, Singapore (subsidiary of MMTC) is exempted from submission of EMD/ bid bond & Performance Guarantee.

|  |                                    |
|--|------------------------------------|
| DUE DATE FOR SUBMISSION OF BOTH TECHNICAL AND PRICE BIDS | 1100 HRS 03/09/2015                |
| DATE AND TIME FOR OPENING OF TECHNICAL BIDS              | 1430 HRS 03/09/2015                |
| DATE AND TIME FOR OPENING OF PRICE BIDS                  | 1530 HRS 03/09/2015                |
| OFFERS TO BE VALID UPTO                                  | Till 25/09/2015 upto 1730 HRS IST. |

**2. TECHNICAL SPECIFICATIONS FOR HARD COKING COAL (SIZE 0-50 MM)**

| Sl. No. | Technical Particulars   | Guaranteed Specifications Required by MMTC. | Absolute Maximum /Absolute Minimum Tolerance Limits |
|---------|---|---|---|
| 1       | 2   | 3   | 4   |
| 1       | Total Moisture (On as received basis)                             | 10% Max.                                    | 12% Maximum   |
| 2       | Proximate Analysis (on 'air dried' basis) (B5 1016 – 1973 part 3) |   |   |
|         | a) Volatile Matter  | 23% Minimum<br>26% Maximum                  | 20% Minimum<br>30% Maximum                          |
|         | b) Ash  | 8.5% Maximum                                | 10% Maximum   |

|    |   |                              |                              |
|----|---|------------------------------|------------------------------|
| 3. | Sulphur (B5 1016 – 1973)  | 0.60% Maximum                | 0.80 % Maximum               |
| 4. | Crucible Swelling Number (CSN) (ISO – 501 – 1981)               | 7.5 Minimum                  | 5 Minimum                    |
| 5  | a) Mean Max. Reflectance Vitrinite (ISO – 7404)                 | 1.15 Minimum<br>1.25 Maximum | 1.10 Minimum<br>1.40 Maximum |
|    | b) Vitrinite percentage (ISO – 7404)                            | 55% Minimum                  | 55% Minimum                  |
|    | c) Vitrinite Distribution V9-V16) (ISO – 7404)                  | 75% Minimum                  | 75% Minimum                  |
| 6  | Gleseler Plastometer Test (ASTM D-2639) Maximum Fluidity (ddpm) | 300 Minimum                  | 300 Minimum                  |

### 3. INSTRUCTION TO BIDDERS:

The bid prepared by the Bidder shall comprise of the following components:

**a) Techno-Commercial Bid to be submitted in Physical or E- Tender Form** including acceptance to supply stipulated quality & quantity of coal & to the terms and conditions of supply : Other documents required to be submitted would include :

- a.1) Bid Bond in the form of Bank Guarantee at **Annexure VII**
- a.2) Statement of Deviations signed and completed in all respect at **Annexure III**
- a.3) MMTC Tender duly signed in original by the authorized officer of the bidder and stamped on all pages of the NIT confirming that the bid is strictly as per terms of Tender and acceptance of all terms and conditions of the Tender.
- a.4) The BG/PG to be issued through a schedule commercial bank at New Delhi / or foreign First Class Bank.
- a.5) Other documentary requirements like bidder's minimum qualifying criteria.
- a.6) Shipping loadport details as per **Annexure IV**
- a.7) Technical specifications offered
- a.8) Performance Bank Guarantee as per **Annexure VIII**
- a.9) Penalties for specifications **Annexure V.**
- a.10) Integrity Pact.

**b) Price Bid: The price bids shall be opened on the due date for the technically qualified bidders only**

b.1 ) The bidder has to quote the price of coking coal using the format enclosed at **Annexure-I** on the basis of FOB (Trimmed) and C&F FO named port(s) of loading . MMTC reserves the right to accept or reject the price offered by Seller.

**4) Criteria of evaluation: Bids shall be evaluated based on FOB or C&F FO price in USD PMT .**

4.1 ) Minimum Bid Quantity: Bidder must quote for a minimum quantity of 60,000 MT +/- 5 % (shipping tolerance) of Australian origin HARD coking coal.

4.2) PRICE BID should contain the details of Price offered as per enclosed **Annexure 1** in Physical form or E-Tender form . The bidder may please note that **the price bids shall be opened for the technically qualified bidders only**. The price bids shall be opened in the presence of bidders / authorized representatives who wish to be present for which they shall be informed / intimated after technical evaluation.

4.3) The bidder is specifically requested to note MMTC's guaranteed specifications as stipulated under col 3 of technical specifications above. In respect of ash , sulphur and Moisture the offers & consequent supplies (if materialized) outside the guaranteed specifications at Col 3 but within the absolute maximum/minimum as stipulated in Col 4 of technical specifications would be financially evaluated as per penalties as indicated in **Annexure-V**.

**5. BIDDERS' MINIMUM QUALIFYING REQUIREMENTS:**

To qualify technically, each bidder shall satisfy all the following minimum threshold criteria.

5.1 That the Bidder has the necessary technical & production capability necessary to perform the Contract. The bidder or Seller must demonstrate sound financial status. The bidders / supplier's annual turn-over should not be less than USD 100 Million (In INR it is approx. Rs 650 Crs approx) or its equivalent. Documentary proof including copy of certified audited annual accounts for last 2 years should be submitted.

**5.2 EMD/Bid Bond:**

Bid Bond / EMD of 2% of the quoted value in USD in format at **Annexure VII** in favor of MMTC Ltd., payable at New Delhi is required to be submitted by the supplier. Further MTPL, Singapore (subsidiary of MMTC) is exempted from submission of EMD & Performance Guarantee. Bid received without EMD would be rejected. The EMD shall not carry any interest. Non-acceptance of LOA, failure of signing the contract and / or establishing the performance guarantee within the time allowed shall be construed as a failure and the EMD shall be forfeited.

**6. VALIDITY OF THE OFFER:**

Each Bidder shall keep their offer firm and valid for acceptance by MMTC till stipulated time & date.

**7 FORMAT FOR THE BID:**

7.1 Each page of the offer should be signed by the authorized officer(s) of the Bidder.

7.2 **Bidders are specifically requested to note that the Purchaser would deal exclusively with the foreign supplier and LC will be established only on foreign supplier.**

## **8 STATEMENT OF DEVIATIONS:**

- 8.1 The Purchaser solicits bids in conformity with the terms and conditions as mentioned in this tender, without any deviations. However, if any Bidder is unable to accept any particular term or proposes any deviation there from, the Bidder shall enclose along with his offer, a Statement of Deviations as per **Annexure-III** given below clearly spelling out the deletions/deviations proposed, which will be evaluated.
- 8.2 The Bidder shall submit his bid confirming his acceptance to all the terms and conditions of the Bidding Documents, except for the deletions/deviations specifically proposed by him in his Bid. Bidder should mention "No Deviation "in the deviation sheet in case all tender terms and conditions are acceptable.
- 8.3 In case improved specifications are offered by the bidder, no premium will be given.

## **9 SUBMISSION & OPENING OF BIDS:**

The bids to be submitted by 11:00 hours ( IST ) on 03/09/2015 through Electronic mode for which Bidders may log on to website <https://mmtc.eproc.in> (OR) through Physical mode for which bidders have to submit their bids in sealed covers in two parts as mentioned below.

a. **PART A: Technical Bid**

Technical Bid comprising of: The envelope sub scribing "**Technical Bid**" should contain documents specified at para 3 above .

1. Tender signed on all pages as proof of acceptance of all terms and conditions.
2. EMD by DD or RTGS or Fund Transfer details.

b. **PART B: Price Bid :-**

The envelope Sub scribing "**Price Bid**" should contain documents wherein the format shall be as per Annexure I

The Technical bid and price bid in separate envelopes should be placed in a packet bearing in Block Capital Letters, the superscription **TENDER NO.MMTC/C&HC/15-16/HCC-02, DATED: 18/08/2015** which should be addressed to General Manager (Steel) MMTC Limited, 3<sup>rd</sup> Floor, Core – I, 7, Institutional Area, Lodi Road, New Delhi – 110 003, India.

**Terms and conditions for E-Tender:**

Class III Digital signature (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 of the RAs approved by Controller of Certifying Authority (CCA) and have to register with e-procurement portal <https://mmtc.eproc.in> (a onetime activity).

The procedure for obtaining Digital certificate is given in the web site <https://mmtc.eproc.in>. In case of any difficulty either mail or talk to the technical support engineer through <https://mmtc.eproc.in> -> contact us/helpdesk. General support and assistance for E-Tender is given in the website <https://mmtc.eproc.in>-> FAQ.

Sealed bids should be dropped in the tender box kept at MMTC Limited, Corporate office, New Delhi or the same can also be sent through Speed Post/ Courier to the MMTC Limited, Corporate office, New Delhi at the following address:

MMTC Limited, Core-1, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003.

**Contact Person:** Shri B Dash, GM, Ph. No. 011-24381362

**Note:** Bids received after the due date and time due to any postal delay will not be considered.

- a) Bidders shall quote the rates in figures as well as in words. Corrections if any should be initialed. In case of any discrepancy in words and figures, the rate quoted in words will be treated as final.
- b) The tender documents must be duly signed on all the pages as a token of acceptance of all the terms and conditions.
- c) Bids received through fax/e-mail or bids received after the due date or time will be rejected.

Notwithstanding anything specified in these tender documents, MMTC Limited at its sole discretion, unconditionally and without having to assign any reason, reserves the right:

- a) To accept or reject the lowest offer or any other offer or all the offers,
- b) To accept any offer in full or in part,
- c) To procure the tendered quantity from more than one bidder.
- d) To reject the offers not conforming to the tender terms without further correspondence.
- e) To reject the offer of past supplier(s) with unsatisfactory track record.
- f) To increase the tendered quantity if suitable bids are received.

- **Earnest Money in physical form should reach us on or before closing date and time of tender.**
11. **PERFORMANCE GUARANTEE:**
- 11.1 MTPL,Singapore (subsidiary of MMTC) is exempted from submission of EMD & Performance Guarantee.
- 11.2 THE PURCHASER SHALL ISSUE a Letter of Award to the successful bidder whose bid is accepted and the successful bidder shall sign the contract and execute a performance guarantee in the form of a Bank Guarantee (as per **Annexure VIII**) for an amount covering 2% (Two percent) of the contract value. Further MTPL, Singapore (subsidiary of MMTC) is exempted from submission of EMD & Performance Guarantee. The duly signed contract and performance Bank guarantee as per our pro-forma shall reach the purchaser within 7 days from the date of issue of Letter of Award (LOA). Within 5 days after receipt of duly signed contract and performance guarantee, Letter of Credit shall be established by the Purchaser. PG issued by any scheduled bank in India / Foreign bank to be advised through their New Delhi branch, shall be acceptable. The PG Bond shall be kept valid and in full force and effect from the date of agreement till a period of 6 months from the date of delivery of the last consignment under the agreement. For this purpose, the date of Bill of Lading shall be the date of delivery in respect of each consignment. Non-acceptance of LOA, Non-signing of the contract/non-performance of the contract within the allowed period will be construed as a failure and the P.G. can be invoked.
- 11.3 In the event of the failure of the Bidder to furnish PG Bond in the prescribed form and/or within the stipulated time, MMTC shall have the right to forfeit the EMD furnished by the Bidder, without prejudice to further recourse for breach of the Agreement
12. **Incase of any queries please contact us at the following: Phone 91-11-24381362 / fax 91-11-24366362 / Email – [bddash@mmtclimited.com](mailto:bddash@mmtclimited.com)**

## **GENERAL CONDITIONS OF THE AGREEMENT**

### **1. SAMPLING AND ANALYSIS:**

1.1 The SELLER shall, at his own expense, arrange to carry out at the load port, the sampling and analysis of the MATERIALS delivered in each consignment, in accordance with the relevant British Standard Specifications (BS Specifications)/Specifications of the American Society for Testing and Materials (ASTM Specifications)/Specifications of the International Organization for Standardization (ISO Specifications), through the independent inspection agency at the load port, as approved by the PURCHASER. The PURCHASER may, at his option and at his own expense, depute his representative(s) to witness the sampling and analysis by the independent inspection agency at load port and may also obtain a part of the Load port sample for testing. The SELLER shall provide necessary assistance in this regard to the PURCHASER'S representative(s).

1.1.1 The gross sample of the MATERIALS delivered in each consignment, drawn for the purpose of determination of load port analysis, shall be divided into three parts.

1.1.2 The first part of the composite sample shall be used by the independent inspection agency at load port for determination of the load port analysis.

1.1.3 The second part of the composite sample shall be retained (for a period of six months) by the independent inspection agency at the load port in suitably packed and sealed condition and shall be treated as "PURCHASER SAMPLE".

1.1.4 The third part of the composite sample shall be retained (for a period of six months) by the independent inspection agency at the load port in suitably packed and sealed condition and shall be treated as "LOADPORT REFEREE SAMPLE".

1.2 The SELLER shall furnish to the PURCHASER the Certificate of Sampling and Analysis issued by the independent inspection agency at the load port indicating:

#### **LOADPORT ANALYSIS:**

- (a) Total Moisture
- (b) Proximate Analysis covering Ash and Volatile Matter.
- (c) Total Sulphur.
- (d) Crucible Swelling Number (CSN).
- (e) Mean Max. Reflectance of Vitrinite
- (f) Vitrinite Percentage
- (g) Vitrinite Distribution ( V9-V16)
- (h) Maximum Fluidity (DDPM)

Note: i) The Certificate of Sampling and Analysis shall be got prepared in 2(Two) originals, copy of which shall be e-mailed/faxed by the SELLER to the PURCHASER within 3(three) days from the date of Bill of Lading in respect of the consignment and the two originals shall be submitted by the SELLER along with other shipping documents for drawing payment.

ii) The Certificate should clearly specify that the coal loaded on the vessel, sample of which was analyzed by the Independent Inspection Agency at loadport is \_\_\_\_\_ brand of freshly mines washed / unwashed straight hard coking coal and mined from \_\_\_\_\_ mine in \_\_\_\_\_.



- 1.3 The results of analysis of the MATERIALS carried out by the approved independent inspection agency at loadport shall be final and shall form the basis of the SELLER'S invoice.
- 1.4 The supplies of the MATERIALS should be as per the guaranteed specifications specified in Annexure II of the Agreement. However, for any deviations in exceptional cases, in the Certificate of Sampling and Analysis at the Loadport, referred to in Para 1.2 hereinabove, from the quality specifications laid down in Annexure-II to this Agreement, the SELLER shall allow rebate(s)/diminution in price in his invoice covering the delivery of the MATERIALS in the consignment where such deviations are noticed, as per **Annexure V**.
- 1.5 Utmost precaution shall be exercised by the SELLER at the time of delivery of each consignment to ensure that the Guaranteed Specifications stipulated at Col 3 of Technical Specifications to the Agreement are strictly complied with. The PURCHASER reserves the right to terminate the Agreement in case there are frequent deviations from the Guaranteed Specifications.

## **2. CHARGEABLE WEIGHT :**

- 2.1 THE SELLER shall, at his cost, determine the weight of the MATERIALS delivered at the port of loading by means of draught survey which shall be conducted by the independent inspection agency at the loadport, appointed by the SELLER and approved by the PURCHASER (through approved licensed marine surveyors) who shall issue the Certificate of Loadport Draught Survey Weight.

Chargeable Weight for purpose of payment shall be calculated as per provisions of **Annexure V**.

- 2.2 The PURCHASER at his own cost, determine the weight of the MATERIALS delivered in each consignment at the destination port by means of draught survey which shall be conducted by the independent inspection agency (through approved marine surveyors) appointed by the PURCHASER. The SELLER may at his option and at his own expense, depute his representative to be present at the time of determination of the Destination Port Draught Survey Weight.

## **3. QUALITY AND WEIGHT VARIATIONS MATERIAL DIFFERENCES**

- 3.1 If during any period during the currency of Agreement, there are deviations from the quality stipulated in **Annexure-II** to this Agreement or there are material differences in the analysis results and/or weight determined at the loading port and at the Purchaser's end, the PURCHASER and the SELLER shall meet to investigate the reasons for such discrepancies in order to reach a mutually agreeable solution.
- 3.2 The Purchaser may request the SELLER to send the PURCHASER SAMPLE as mentioned in Para 1.1.3 hereinabove, to a designated Inspection Agency at no additional cost to the PURCHASER. The PURCHASER may carry out analysis on the sample. The cost of analysis would be borne by the PURCHASER.
- 3.3 In case the PURCHASER on analyzing the PURCHASER SAMPLE finds the results to be at adverse variance from the Loadport analysis, the PURCHASER shall report such discrepancy to the SELLER and the PURCHASER and the SELLER shall meet to investigate the reasons for such discrepancies in order to reach a mutually agreeable solution.

- 3.4 In case the SELLER contests the validity of the analysis results of the PURCHASER SAMPLE, the SELLER shall forward the LOADPORT REFEREE SAMPLE for Umpire analysis for properties showing such adverse variance, to an Independent internationally reputed Inspecting Agency nominated by buyer. The Umpire's finding, which shall be promptly obtained, shall be final and binding on both parties. The cost of Umpire analysis shall be borne by the losing party.
- 3.5 In case the Umpire analysis of the LOADPORT REFEREE SAMPLE is at adverse variance as mentioned hereinabove, the Purchaser and the Seller shall mutually make an assessment of the loss suffered by the Purchaser and the Purchaser shall be entitled to rebate/diminution in price in respect of the said consignment on the basis of this assessment.

NOTE: Independent Inspection Agency at loadport shall be appointed by the PURCHASER.

#### **4. INSURANCE :**

The PURCHASER in case of FOB shall at his own expense, arranges for suitable marine insurance cover for the MATERIALS delivered by the SELLER, the SELLER shall **within three working days** from the date of Bill of Lading intimate to the PURCHASER by E-mail: bddash@mmtclimited.com //Fax +91 11 24366362 , the Agreement number, the port of loading, the name of the vessel, the quantity of the MATERIALS loaded on board the vessel as per Loadport Draught Survey Weight and value thereof, the Bill of Lading number and date, the date of sailing of the vessel, the name of the destination port and the expected date of arrival of the vessel at the destination port. The SELLER shall fax the message twice to ensure clear receipt of the message by the PURCHASER.

#### **5. LIQUIDATED DAMAGES :**

In the event of the SELLER'S failure to deliver the required MATERIALS within the time(s) specified in the Agreement for delivery, the SELLER shall have to pay as liquidated damages (and not by way of penalty), a sum equivalent to one percent of the price of any MATERIALS which the SELLER has failed to deliver, as aforesaid, for each and every month of delay or part thereof provided, however, such liquidated damages shall not apply to any period of extension granted by the PURCHASER/under Force Majeure conditions given under Para 12 herein below. The maximum amount of Liquidated Damages levied on any shipment will not exceed 10% of the value of the MATERIALS in that shipment. Delivery of the MATERIALS after the same shall become liable for levy of liquidated damages under this Clause and shall not operate as a waiver of PURCHASER'S right to levy liquidated damages.

#### **6. DEFAULT AND RISK PURCHASE:**

If the SELLER in any manner or otherwise neglects or fails to perform the Agreement, the PURCHASER after having come to know of such negligence or non-performance after giving a notice shall take such action as it considers fit including taking risk mitigation action for supply of similar MATERIALS at the risk and cost of the SELLER.

#### **7. TERMS OF PAYMENT:**

The PURCHASER shall establish irrevocable Letter(s) of Credit on shipment to shipment basis covering approximate value of each shipment upon nomination of vessel. Such Letter of Credit shall be valid for a period of 90 days from the date of opening, for shipment and negotiation provided that all the terms and conditions of this L/C are strictly complied with and negotiating bank has sent authenticated swift certificate, it will be authorized to

claim reimbursement after 5 (five) banking days of the date of receipt of documents at counters of the L/C opening bank.

Confirmation of the L/C can be arranged at the cost of the seller. Transferable L/C is not acceptable. L/C to provide for payment on sight on submission of standard shipping documents duly complying with the provisions of terms of LC.. The documents constituting standard shipping documents are as under:

7.1 2/3 sets of original clean on Board Bill(s) of Lading made out to order and blank endorsed marked Notify "MMTC Ltd., Alok Bharati Complex, 7<sup>th</sup> Floor, Sahid Nagar, Bhubneshwar 751 007, INDIA". The Bills of Lading must be issued in 'CONGENBILL FORM' only.

**Note:** Charter Party Bill(s) of Lading marked "Freight Pre-paid" (in case of C&F(FO) basis) or "freight payable as per Charter Party" (in case of FOB(T) BASIS) will be acceptable.

7.2 Signed Commercial Invoices-in quadruplicate.

7.3 Certificate of Sampling and Analysis issued by the independent inspection agency at loadport clearly specifying that the sampling and analysis pertains to the **named Brand** loaded on the vessel – in duplicate. On no account, the Analysis result of any technical parameter shall exceed the absolute maximum/absolute minimum tolerance limit stipulated under Column 4 of Technical Specifications vide **Annexure-II** to this Agreement.

7.4 Certificate of Origin issued by Chamber of Commerce or a similar authorized agency in duplicate.

7.5 Loadport Draught Survey Weight Certificate issued by the independent inspection agency at loadport-in triplicate.

7.6 SELLER'S Certificate-in quadruplicate, confirming that (a) one negotiable copy of the Bill of Lading alongwith four non-negotiable copies of Bill of Lading (b)( two non-negotiable copies of Commercial Invoice(s) six copies of the Certificate of Sampling and Analysis at loadport (d) two copies of Certificate of Origin (e) two copies of Loadport Draught Survey Weight Certificate and (f) copy of SELLER'S Fax/e-mail advice of shipment to the PURCHASER referred to in Para 4.1 hereinabove, have been sent through Courier Service direct to the PURCHASER at "MMTC Ltd., Alok Bharati Complex, 7<sup>th</sup> Floor, Sahid Nagar, Bhubneshwar 751 007, INDIA", within sever days from the date of Bill(s) of Lading.

7.7 Copy of SELLER'S FAX/e-mail advice of shipment to the PURCHASER referred to in Para 4 and 7.4 – in quadruplicate.

7.8 Within 7 (seven) days from the date of Bill of Lading in respect of each consignment, the SELLER shall send through Courier Service, direct to the PURCHASER at "MMTC Ltd., Alok Bharati Complex, 7<sup>th</sup> Floor, Sahid Nagar, Bhubneshwar 751 007, INDIA", the following documents in respect of each shipment:

- (a) One negotiable copy of Bill of Lading alongwith four non-negotiable copies.
- (b) Two non-negotiable copies of Commercial Invoice.
- (c) Six copies of the Certificate of Sampling and Analysis at loadport.
- (d) Two copies of Certificate of Origin.
- (e) Two copies of loadport Draught Survey Weight Certificate.
- (f) Copy of SELLER'S FAX/e-mail advice of shipment to the PURCHASER referred to in 4.1 hereinabove.

7.9 The SELLER shall email copies of signed Bills of Lading, Commercial Invoice, Certificate of Sampling and Analysis, Certificate of Origin and Loadport Draft Survey Certificate, Seller's Certificate stated at Clause 5.2.6 hereinabove and Seller's advice to shipment stated at Clause 5.2.7 hereinabove to the PURCHASER at e-mail [bddash@mmtclimited.com](mailto:bddash@mmtclimited.com) with the scanned documents within 5 working days after the Bill of Lading Date.

In case of amendment of LC on request of Seller, the charges so incurred shall be payable by Seller.

The Invoices so raised by Seller should follow provisions of **Annexure V**.

MMTC reserves the right to request the supplier for hatch wise Bill of Ladings/ split B/L's.

#### **8. TERMS OF DELIVERY:**

The period of delivery is the essence of this tender. Immediately after signing LOI and submission of PG (if applicable), in case of FOBT agreements, the purchase shall arrange for chartering suitable vessels for taking delivery of the material on the basis of FOBT port of loading.

The Seller take necessary steps to ensure that sufficient quantity of material is ready for delivery at the load port to enable the nominated vessel to off take the ordered quantity within the delivery period.

The purchase shall endeavor to nominate vessel as per the stem, however, the Seller may accept vessels with minor changes in laydays and quantities.

For any delay in clearance at the port of destination on account of non supply of shipping documents in time and / or due to faulty documents, the Seller would be held responsible for any demurrage, port rent etc. which the purchaser may become liable to pay to the authorities at the discharge port in India.

The terms of delivery of the MATERIALS shall be as per **Annexure – VI** .

#### **9. TAXES & DUTIES:**

The SELLER shall be entirely responsible for all taxes, Stamp duties, License fees and other such levies imposed outside the Purchaser's country.

#### **10. EXPORT LICENCE :**

It shall be the responsibility of the SELLER to obtain the requisite Export Licence and comply with other relevant laws of his country for export of the MATERIALS and he shall keep the PURCHASER indemnified for any losses which accrue to the PURCHASER because of any defect therein.

#### **11. ARBITRATION:**

All disputes or differences whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this contract or the breach thereof shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of

Arbitration and the award made in pursuance thereof shall be binding on the parties. The venue of Arbitration shall be New Delhi, India.

## **12 FORCE MAJEURE:**

- 12.1 If either the SELLER or the PURCHASER be prevented from discharging its or their obligation under this Agreement by reason of restraints by Government or people , war, blockade, revolution, insurrection, mobilization, strikes, civil commotions, Acts of God, plague or other epidemics, destruction of the MATERIALS by fire or flood or other natural calamity interfering with the production , loading or discharge , the time for delivery shall be extended by the time or times not exceeding one **month**, during which loading or discharge is prevented by any such causes as hereinabove mentioned. The party invoking protection under this clause shall within 15(fifteen) days of the occurrence of force majeure causes put the other party on notice supported by Certificate from the Chamber of Commerce or concerned Government Authority and shall likewise intimate the cessation of such causes. The delivery shall be resumed by the Party/Parties at the earliest and within 15 (fifteen) days from the cessation of the force majeure causes.
- 12.2 Should there be any interruption in the delivery of the MATERIALS due to force majeure circumstances detailed in the Para 12.1 herein above, it is hereby mutually agreed between the PURCHASER and the SELLER that the period of off-take of the MATERIALS by the PURCHASER/period of delivery of the MATERIALS by the SELLER shall automatically stand extended by a period not exceeding one **month**, equal to the actual duration of the causes interrupting the off take by the PURCHASER and/or delivery of the MATERIALS by the SELLER plus a period of six weeks to enable the affected party to make suitable arrangements for resumption/ normalization of shipments.

## **13 APPLICABLE LAWS**

- 13.1.1 This Agreement shall be governed by and construed according to the laws of India for the time being in force.
- 13.1.2 To interpret all the commercial terms and abbreviations used herein which have not been otherwise defined, the rules of "INCOTERMS 2010" shall be applied

## **14 LIABILITY OF GOVT. OF INDIA:**

It is expressly understood and agreed by and between the SELLER and the PURCHASER that the PURCHASER is entering into this Agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Govt. of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the PURCHASER is an independent legal entity with power and authority to enter into contracts solely in its own behalf under the applicable laws of India and general principles of Contract Law. The SELLER expressly agrees, acknowledges and understands that the PURCHASER is not an agent, representative or delegate of the Govt. of India. It is further understood and agreed that the Govt. of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, the SELLER hereby, expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Govt. of India arising out of this Agreement and covenants not to sue the Govt. of India as to any manner, claim, cause of action or thing whatsoever arising of or under this Agreement.

**Encl:**

- |  |   |                |
|--|---|----------------|
| 1. Proforma for Price Bid                              | : | Annexure-I     |
| 2. Technical Specifications of HCC offered by Supplier | : | Annexure-II    |
| 3. Deviation Statement                                 | : | Annexure-III   |
| 4. Proforma for Shipping / Loadport details            | : | Annexure-IV    |
| 5. Penalty for Deviation for HCC                       | : | Annexure-V     |
| 6. FOB Terms & Conditions                              | : | Annexure-VI    |
| 7. Bid Bond Proforma                                   | : | Annexure – VII |
| 8. Performance Guarantee format                        | : | Annexure -VIII |
| 9. Integrity Pact                                      | : | Annexure - IX  |

**GM (Steel)**

**ANNEXURE –I****TENDER NO.MMTC/C&HC/15-16/HCC -02****DATED:18/08/2015****PROFORMA FOR PRICE BID**

1. Name of the Bidder :
2. Address :
3. (a) Brand/Name of freshly mined prime Quality washed coking coal offered :
- (b) Country of origin of the Coal : Australian Origin
4. Price quoted per metric ton in USD: **Hard coking coal of Australian Origin**

| S. No | Month         | Quantity        | Port Of Loading | Laycan Period in case of FOB | Price FOB (Trimmed) in USD PMT in figures | Laycan Period in case of C & F FO | Price C & FFO in USD PMT in figures |
|-------|---------------|-----------------|-----------------|------------------------------|---|-----------------------------------|-------------------------------------|
| 1     | October, 2015 | 60,000 (+/- 5%) |                 | 01-10 October, 2015          |   | 01-10 October, 2015               |                                     |
|       |               |                 |                 |                              |   |                                   |                                     |

Price FOB (Trimmed) in USD PMT in words.....

Price C & FFO in USD PMT in words.....

Discharge port: Paradip , India

**NAME & SIGNATURE OF THE  
AUTHORISED  
SIGNATORY OF THE BIDDER**

**(NAME OF THE BIDDER)**

**ANNEXURE –II****TENDER NO.MMTC/C&HC/15-16/HCC -02****DATED: 18/08/2015****SPECIFICATION OF FRESHLY MINED, WASHED STRAIGHT HARD COKING COAL (Australian Origin) OFFERED BY SUPPLIER (SIZE 0 TO 50MM) to be submitted with Part 1 of Bid:**

| S.N | Technical particulars   | Guaranteed Specifications Required by Purchaser | Absolute Maximum / Absolute Minimum tolerance limits |
|-----|---|---|--|
| (1) | (2)   | (3)   | (4)  |
| 1.  | Total Moisture (on "As received" basis)                         | -----% Maximum                                  | 12% Maximum  |
| 2.  | Proximate Analysis (on "Air Dried" basis) (BS1016 1973 Part 3)  |   |  |
|     | a) Volatile Matter  | -----% to-----%                                 | 20% Minimum<br>30% Maximum                           |
|     | b) Ash  | -----% Maximum                                  | 10% Maximum  |
| 3.  | Sulphur (BS1016 1973)   | -----% Maximum                                  | 0.80% Maximum  |
| 4.  | Crucible Swelling Number (CSN) (ISO/501 –1974)                  | -----Minimum                                    | 5 Minimum  |
| 5.  | a) Mean Max Reflectance of Vitrinite (ISO/7404)                 | -----to-----                                    | 1.10Minimum<br>1.40Maximum                           |
|     | b) Vitrinite percentage (ISO/7404)                              | -----% Minimum                                  | 55% Minimum  |
|     | c) Vitrinite Distribution (V9-V16)(ISO/7404)                    | _____ % Minimum                                 | 75% Minimum  |
| 6.  | Gieseler Plastometer Test (ASTM D-2739) Maximum Fluidity (DDPM) | -----Minimum                                    | 300 Minimum  |

N.B.-EXCEPT AS OTHERWISE PROVIDED FOR IN THIS TENDER, ON NO ACCOUNT, HARD COKING COAL WITH TECHNICAL CHARACTERISTICS FALLING ABOVE/BELOW THE ABSOLUTE MAXIMUM/ABSOLUTE MINIMUM SHOWN UNDER COLUMN NO.4 ABOVE SHALL BE DELIVERED/ACCEPTED.

(Name &amp; Signature of Tenderer)



Date:  
Place:

**ANNEXURE – III**

**TENDER NO.MMTC/C&HC/15-16/HCC -02**

**DATED: 18/08/2015**

**TENDER TERMS DEVIATION STATEMENT FORM (to be submitted with Part – 1)**

1. The following are the particulars of deviations from the requirements of the bidding terms and conditions and specifications.

| S. No | Clause/<br>Para | Deviation | Remarks |
|-------|-----------------|-----------|---------|
|       |                 |           |         |

We, hereby declare that there are no other deviation from the tender terms and conditions other than those mentioned above.

(Name, Signature and seal of the bidder)

Date:  
Place:

**ANNEXURE- IV****TENDER NO.MMTC/C&HC/15-16/HCC -02****DATED: 18/08/2015****PROFORMA FOR SHIPPING/LOADPORT DETAILS**

|    |  |   |                       |
|----|--|---|-----------------------|
| 1. | Quantity offered (To be same as indicated in Price Bid as applicable)  | : | ..... metric tons HCC |
| 2. | Name and Location of Port of Loading   | : | ..... for HCC         |
| 3. | Restrictions, if any, (as to vessel dimensions etc.) at the Port of Loading, type and size of vessel   | : | ..... for HCC         |
| 4. | Coal Loading facilities at the Loadport (Viz. whether Automatic /manual ship loaders, shore grabs etc.),   | : | ..... for HCC         |
| 5. | Clearance dimensions of the coal loading gantries  | : | ..... for HCC         |
| 6. | Sailing draught at the Loadport  | : | ..... for HCC         |
| 7. | Amount of Taxes/Levies/ Dues, if any, payable by ship-owners at the Port of Loading,   | : | US \$..... for HCC    |
| 8. | Stowage Factor   | : | ..... for HCC         |
| 9. | Bidders confirmation that the above Mentioned load port conforms to the International Ship and Port Facility Security (ISPS) code stipulated by the International Maritime Organization. | : |                       |

**THE BIDDER AGREES TO COMPLY WITH THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY(ISPS) CODE STIPULATED BY THE INTERNATIONAL MARITIME ORGANISATION, WHICH HAS COME INTO EFFECT W.E.F 1ST JULY 2004. FAILURE ON THE PART OF THE BIDDERS TO COMPLY WITH THE ISPS CODES REQUIREMENTS AND/ OR THE LOADPORT NOT CONFORMING WITH THE ISPS CODES AND NON-COMPLIANCE TO AS STATED IN CLAUSE-9 under 'GENERAL CONDITIONS OF THE AGREEMENT' HEREINABOVE AND ANY DELAYS CAUSED BY SUCH FAILURES SHALL BE TO BIDDER'S ACCOUNT.**

**Note:** Filled in Proforma to be submitted by the Bidder **with** (Techno-Commercial) Bid.

**NAME & SIGNATURE OF THE  
AUTHORISED SIGNATORY OF THE BIDDER**

**(NAME OF THE BIDDER)**

**ANNEXURE- V****TENDER NO.MMTC/C&HC/15-16/HCC -02****DATED: 18/08/2015****PENALTY FOR DEVIATION FOR HARD COKING COAL/ PENALTIES FOR EVALUATION OF OFFERS FOR HARD COKING COAL (Australian Origin)**

| Sl. No  | Technical Particulars | Basis for application of <b>Penalty</b> in price for evaluation of <b>Guaranteed Specifications</b>   | Penalty in price in US\$ per MT                           |
|---|-----------------------|---|---|
| 1   | 2                     | 3   | 4   |
| (i)   | Ash                   | Penalty for every increase of 0.5% (Fractions pro-rata) in Ash Content in excess of guaranteed limit of <b>8.90%</b> upto absolute Maximum Tolerance Limit of <b>10 %</b>   | US \$ 1.25<br>(US Dollar one and cents Twenty five only ) |
| (ii)  | Sulphur               | Penalty for every increase of 0.1% (fractions pro-rata) in Sulphur content, in excess of guaranteed Limit of <b>0.60%</b> upto absolute maximum tolerance limit of 0.80%.   | US \$ 1.00<br>(US Dollar One only)                        |
| (iii)   | Moisture              | Where the Total Moisture (on "As received" basis) in the MATERIALS as disclosed in the "Certificate of Sampling and Analysis" at Load port exceeds Guaranteed limit ( <b>10%</b> ) , the Invoice Weight shall be reduced by the excess percentage of Total Moisture over Guaranteed limit @ 1.3% for every 1.00% increase over Guaranteed limit (fractions pro-rata), upto an Absolute Maximum Tolerance Limit of <b>12 %</b> . Material with Total Moisture content exceeding Absolute Maximum Tolerance limit of <b>12%</b> should not be supplied in any case. |   |
| No bonus/increment will however be applicable for improvement in specification observed over the values offered and guaranteed by the seller. |                       |   |   |

**ANNEXURE VI**

**TENDER NO.MMTC/C&HC/15-16/HCC -02**

**DATED: 18/08/2015**

**TERMS AND CONDITIONS FOR DELIVERY OF THE MATERIALS ON THE  
BASIS OF FOB (TRIMMED) PORT(S) OF LOADING**

1.The PURCHASER shall as far as possible, charter vessels required for carriage of the MATERIALS under this Agreement upon the terms of the AMERICANISED WELSH COAL CHARTER PARTY with such variations or deletions therein or additions thereto as are necessary to make it conform to the provisions of this Agreement and as further elaborated herein below.

2. The PURCHASER shall charter single-decker vessels suitable for bulk loading in the capacity range of 60,000 metric tons with a tolerance of plus or minus 5% (five percent) per voyage, at ship-owner's or Charterer's (i.e. PURCHASER'S) option. In case vessels of other size are available for meeting the requirements, the PURCHASER shall have the option of chartering and nominating such vessels also. While chartering the vessels, the PURCHASER shall take into account the details furnished by the SELLER to the PURCHASER regarding the coal loading facilities, acceptable dimensions of the vessels, clearance dimensions of the coal loading gantries and sailing draught at the load port(s).

2.1 The vessel nominated by the PURCHASER shall be classed highest Lloyds or equivalent, be in thoroughly seaworthy condition, comply in every respect with all International and Local regulations, comply with all regulations governing the carriage by sea of coal in bulk and shall be maintained as such for the duration of the voyage.

3. The Charter Party/Parties between the Ship-owner(s) and the PURCHASER in respect of the vessel(s) fixed by the PURCHASER for carriage of the MATERIALS under this Agreement shall, inter-alia, provide for the following.

3.1 The Ship-owner shall bear and pay all port dues (except port loading charges), tonnage dues, light dues and all other taxes, assessments and charges which are customarily payable at the loadport(s) on or with respect to the vessel(s).

3.2 The Master of the vessel shall give fax / email advice(s) at the intervals of 7 days, 72 hours and 24 hours to the SELLER regarding the ETA of the vessel and the quantity required to be loaded into the vessel at the loadport.

3.3 The Master of the vessel shall provide free use of light on board the vessel as may be required for working the vessel at the loadport(s) and in each case free of expense to the SELLER.

3.4 The Master of the vessel shall allow on board the vessel the authorized representative(s) of the Independent Inspection Agency/Marine Surveyors at the loadport(s) to witness/inspect and supervise the loading of the MATERIALS into the hatches of the vessel as well as to carry out draught surveys.

3.5 Bills of Lading shall be prepared on the basis of the Draught Survey Weight determined by the Independent Inspection Agency through approved Marine Surveyors at the load port and such Bill(s) of Lading shall be endorsed by the Master of the vessel or the agents of the Ship-owner at the load port within 24 hours after completion of loading. The Bills of Lading must be issued in 'CONGENBILL FORM' only.

3.6 The Master of the vessel or the agents of the Ship-owner at the load port shall release Bill(s) of Lading marked "Freight payable as per Charter Party" immediately after completion of loading.

4. Based on the delivery schedule agreed upon between the PURCHASER and the SELLER, the PURCHASER shall nominate vessel about two weeks prior to effecting of the shipment. The SELLER shall confirm to the PURCHASER by fax or e-mail, the acceptance of such vessel(s) within 2(Two) working days of the nomination thereof. The lay days for each vessel shall be narrowed down to 10 days, in advance of the ETA of the vessel at the loadport.

5. Upon the fixture of any vessel by the PURCHASER for carriage of the MATERIALS under this Agreement, the PURCHASER shall intimate to the SELLER relevant particulars of such vessel. The PURCHASER reserves the right to appoint his own agent(s) at the loadport(s).

6. The SELLER shall arrange to deliver/load the MATERIALS FOB (TRIMMED) into the vessel(s) nominated by the PURCHASER and accepted by the SELLER at the port(s) of loading.

7. The SELLER shall arrange for a safe loading berth for the vessel at the notified loading port.

8. The SELLER shall guarantee to deliver/load the MATERIALS into the vessel(s) (FOB Trimmed), at the following rate:

Guaranteed rate of loading per Weather Working Day (WWD) of twenty four consecutive hours, Afternoons of Saturday/Sundays Holidays Excepted, Unless Used (SASHEXUU) unless vessel is already on demurrage:

**Loading rate of 25,000 metric tons**

8.1 If any time is used by the SELLER on Saturday afternoons, Sundays or Holidays to deliver/load the MATERIALS into the vessel(s), the time actually used shall count as laytime.

8.2 If any overtime work is performed by the crew of the vessel at the port of loading at the instance of the SELLER, crew's overtime shall be borne and paid for by the SELLER.

9. Upon arrival of the vessel at the outer anchorage or at the pilot station of the load port, whether the vessel is in free pratique or not and in berth or not, Master of the vessel shall serve on the SELLER the Notice of Readiness of the vessel to load cargo (MASTER'S N/R) between 0900 hours to 1630 hours on working days (Monday to Friday) and between 0900 hours to 1200 hours on Saturdays.

If the vessel, whether in free pratique or not, is found by the SELLER not to be ready in any other respect to load after its berthing, the specific grounds on which the vessel is found not to be ready to load, shall be recorded by the SELLER in the STATEMENT OF FACTS which is also to be accepted and signed by the Master/Agent of the vessel at the loadport. In such an event, the laytime shall not be deemed to have commenced until the vessel is in fact ready to load in all respects. Statement of Facts should contain proper notation & mentioning to reflect all activities undertaken while loading & the delays attributable to shoreside or to the Vessel. Statement of Facts should be signed by all concerned. Such Statement of Facts shall form basis for Demurrage / Despatch settlement at loadport.

Laytime (i.e loading time) shall commence 24 hours after the time at which MASTER'S N/R is served, whether the vessel is in berth or not and in free pratique or not, unless the loading of the MATERIALS sooner commenced, in which event laytime shall count from the actual time of commencement of loading. Any time lost by the vessel in waiting for berth shall also count as

loading time. If the vessel arrives and commences loading before the agreed laycan, then the laytime shall commence from the time of commencement of loading.

10. The SELLER shall arrange to deliver/load the MATERIALS into the vessel and to trim the MATERIALS inside the hatches of the vessel by mechanical or manual means at the option of the SELLER in accordance with the instructions of and to the satisfaction of the Master or the Chief Officer of the vessel free of risk and all expenses either to the vessel or to the PURCHASER. Claims for damage caused to the vessel by stevedores, if any, are to be settled between the SELLER and the Ship-owners.

The Master/Agent of the vessel at the loadport should notify in writing of any alleged damage to the vessel by the stevedores and failure to so notify shall bar any claim thereof. In any event, any such claim shall be barred if not made prior to the departure of the vessel from the loadport where damage is alleged to have occurred.

11. Should the SELLER fail to deliver/load the MATERIALS into the vessel(s) in full or in part for reasons other than Force Majeure the SELLER shall be liable to the PURCHASER for all payment or expenses which the PURCHASER may incur by reason of such non-delivery including dead freight or extra freight, demurrage to the vessel and/or any other charges and expenses of whatsoever nature which may be incurred by the PURCHASER.

12. Immediately on completion of loading of the MATERIALS into the vessel, the SELLER shall furnish the PURCHASER the following details by Fax/ e-mail to the PURCHASER to enable the PURCHASER to take necessary marine insurance cover,(i) Name of the vessel (ii)Quantity loaded as per Loadport Draught Survey Weight and approximate value thereof (iii) Name of the loadport, (iv) Date and time of commencement and completion of loading and (v) Date and time of sailing of the vessel from the loadport (vi) No and date of Bill of Lading.

13. Immediately on completion of loading, the SELLER shall obtain from the Master of the vessel or the Agents of the vessel at the loadport 'CLEAN ON BOARD' shipped Bill(s) of Lading.

14. Immediately after completion of loading, a STATEMENT OF FACTS as mentioned at Clause 9 above shall be made out at the loadport duly signed by the Master of the vessel/Agents of the vessel at the load port and the SELLER or their Agents at the load port. Before the sailing of the vessel from the loadport, copies of the Statement of Facts shall be handed over to the Master of the vessel/Agents of the vessel at the loading port & Seller / Agent.

15. In the TIME SHEET based on the aforesaid STATEMENT OF FACTS, the computation of laytime allowed and laytime used shall be based on the terms and conditions contained in Paragraphs 8,8.1,9 hereinabove. Despatch, if any, shall be calculated on the basis of "working time saved". The rate of demurrage/despatch shall be as stipulated in Charter Party relating to the vessel. In the case of demurrage, the SELLER shall remit the agreed amount of demurrage to the PURCHASER. In the case of despatch, the PURCHASER shall remit the agreed amount of despatch to the SELLER. The final settlement of the account of demurrage/despatch in respect of each vessel shall be effected directly between the SELLER and the PURCHASER on the above basis, within 90 days from the date of receipt of claim with supporting documents. Such claims should be lodged within 60 days from the date of sailing of the vessel from the Loadport on vessel to vessel basis.

16. The SELLER has agreed to comply with the International Ship and Port Facility Security (ISPS) Code stipulated by the International Maritime Organization, which has come into effect w.e.f. 1st July 2004. Failure on the part of the SELLER to comply with the ISPS code's requirements and / or the Loadport not conforming with the ISPS code and any delays caused by such failures shall be to the SELLER's account who shall be fully responsible for all the consequences arising out of it.

NOTE: 1. Name and Address for serving Notice regarding ETA of the vessel and Notice of Readiness of the vessel to the SELLER at the Loadport as per Para 3.2 and 9 hereinabove:  
M/S \_\_\_\_\_  
\_\_\_\_\_

2. (i) Parcel size has been indicated in Clause 2 as per PURCHASER's requirement. However, alternate parcel size, due to loadport restrictions, if any, can be considered by PURCHASER.

(ii) Clause 8 indicates Guaranteed Rate of Loading as per PURCHASER's requirement. However, alternate Guaranteed Rate of Loading to suit loadport requirements/ restrictions can be considered by PURCHASER.

**ANNEXURE VII**

**BID GUARANTEE FORM FOR EMD/BID BOND**

IN ACCORDANCE WITH INVITATION OF BIDS FOR SUPPLY OF HCC 60,000 MT +/- 5%..... IN BULK TO MMTC

MMTC LIMITED  
CORE NO 1, SCOPE COMPLEX  
7 INSTITUTIONAL AREA  
LODHI ROAD  
NEW DELHI 110 003

1. WHEREAS, MMTC LIMITED, Core NO 1, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi 110 003 INDIA (hereinafter called MMTC) has invited bids vide GLOBAL Tender No.....dated (hereinafter referred to as Invitation to Bids) for supply of 60,000 MTS (+/-5%) (plus/minus FIVE percent) imported \_\_\_\_\_Hard coking coal .
2. WHEREAS, the said Invitation to Bid requires that an eligible bidder intending to make a bid in response thereto shall deposit an amount of 2% of the quoted value, or in lieu of the said cash deposit shall furnish an irrevocable Bid-Bond in favor of MMTC Ltd., New Delhi in the form of a Bank Guarantee of US\$.....(US Dollars.....) with a validity for a period of 180 days (One Hundred and Eighty Days) from the date of submission of the Bids.
3. AND WHEREAS at the request of M/s .....(Name of the Bidder) We.....(Name & Address of the Bank) do hereby irrevocably and unconditionally guarantee and undertake payment to MMTC Ltd., New Delhi upto and not exceeding the sum of US \$.....(US Dollars.....) with a validity period upto 180 days (one hundred and eighty days)and that the Bidder; M/s.....
  - a. Shall keep his bid firm and valid for acceptance by MMTC upto (150 days).....from the date of submission of bids.
  - b. Shall ,in the event of the bid being accepted by MMTC, within fifteen (15 days) from the date of issuance of LOA/LOI from MMTC execute an Agreement for supply of imported Hard coking coal .
  - c. Shall in the event of the conclusion of Agreement keep this bid-bond valid till such time that contract is concluded as per the provisions of the agreement/contract.
4. We----- (Name and Address of the Bank) (hereinafter referred to as the Bank which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee that in the event of the said Bidder failing to abide by any of the conditions referred to in any of the preceding paragraphs, this Bank shall pay to MMTC Ltd., New Delhi, India on demand without MMTC having to substantiate its demand and without protest or demur and without any reference to the said Bidder a sum of USD.....(US Dollars.....). This bank further agrees that the decision of MMTC Ltd., as to whether the said bidder has committed a breach of



any of the conditions referred to in the preceding paragraphs shall be unquestionable, conclusive, final and binding.

5. We.....(Bank) undertake to pay the amount demanded by MMTC, not exceeding the sum of US\$.....only without any demur, delay, protest and without any reference or recourse to M/s.....(bidder) notwithstanding any dispute raised by .....(bidder) in any suit proceedings relating there to pending before any court or tribunal our liability under these presents being absolute and unequivocal.
6. The payment shall be made to MMTC Ltd., New Delhi across the counter of this bank on the same day of receipt of invocation of this bank guarantee.
7. NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to US\$.....(US Dollars.....) only.
8. Your demand in writing duly signed and sealed by the authorized signatory of MMTC Ltd may be presented to the Bank by courier/fax/airmail/speed post/ Registered Post or in person and the same shall be binding on us.
9. This Bank further undertakes that this Guarantee shall remain irrevocably valid and in force initially upto a period of 180 days and shall expire on.....(Date) and that the same shall be extended further according to the provisions contained hereinabove and shall not be amended or withdrawn without the previous consent of MMTC in writing.
10. This guarantee will not be discharged due to change in the constitution of the Bank or the said M/s (Bidder).
11. The liability of this bank shall discharge upon receipt of US\$.....only by MMTC.
12. This Guarantee is governed by the Laws of India and comes into force forthwith.
13. We have the power to issue this guarantee in your favour under the Charter of our Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted by the Bank.

Signature

Name and Code

Designation

OFFICIAL SEAL OF THE BANK

**ANNEXURE VIII**

**PERFORMANCE BANK GUARANTEE**

MMTC LIMITED  
CORE NO 1, SCOPE COMPLEX  
7 INSTITUTIONAL AREA  
LODHI ROAD  
NEW DELHI 110 003

1. WHEREAS, MMTC LIMITED, Core NO 1, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi 110 003 INDIA (hereinafter called MMTC) have entered into contract No.....DATED (hereinafter called the CONTRACT) for.....with M/s (name).....address.....(hereinafter called the ).
2. AND WHEREAS the "Seller" under the CONTRACT is required to furnish a Security for the performance of the CONTRACT and MMTC has agreed to accept the Bank Guarantee in lieu of security deposit of the said sum of US\$.....
3. AND WHEREAS at the request of M/s .....(Name of the Seller) We.....(Name & Address of the Bank) do hereby irrevocably and unconditionally guarantee and undertake payment to MMTC Ltd., New Delhi immediately on demand upto and not exceeding the sum of US \$......(US Dollars.....) payable by the "Seller" in the event of failing to perform any or all their obligations under the CONTRACT. The decision of the MMTC that the "Seller" has failed to perform all or any of its obligations under the CONTRACT shall be conclusive, final and binding on us.
4. We.....(Bank) undertake to pay the amount demanded by MMTC, not exceeding the sum of US\$.....only without any demur, delay, protest and without any reference to recourse to M/s.....(bidder) notwithstanding any dispute raised by .....(bidder) in any suit proceedings relating there to pending before any court or tribunal our liability under these presents being absolute and unequivocal. The payment shall be made to the MMTC across the Counter of the bank on the same day of receipt of invocation of this Bank Guarantee.
5. NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to US\$.....(US Dollars.....). Our guarantee shall remain in force until.....(date).
6. All your rights under the Guarantee shall be forfeited and we shall be relieved and discharged from all liability there-under unless a claim under the Guarantee is made on our Bank in writing on or before .....(expiry date.)
7. Your letter of demand in writing duly signed and sealed by the authorized signatory of MMTC Ltd may be presented to the Bank by courier/fax/airmail/speed post/ Registered Post or in person and the same shall be binding on us.
8. We further agree that MMTC shall have the fullest liberty without our consent and without effecting any manner, our obligations hereunder to vary any of the terms and conditions of the delivery or extend time of performance by the .....from time to time or to postpone for any time or from time to time, any of the powers exercisable by MMTC against the said .....and to forbear or enforce any part of the terms and conditions relating to the said

CONTRACT and we shall not be relieved from our liability by reason of any such variations or extension being granted to the said M/s.....

9. This guarantee will not be discharged due to change in the constitution of the Bank or the said M/s (Seller).
10. The liability of this bank under this guarantee shall be discharged upon receipt of US\$.....only by MMTC.
11. We .....(Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of MMTC LIMITED in writing.
12. This Guarantee is governed by the Laws of India and comes into force forthwith.
13. We have the power to issue this guarantee in your favour under the Charter of our Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted to him by the Bank.

**SIGNED ISSUED at AND DELIVERED THIS .....DAY OF .....2015**

Yours faithfully,  
For & on behalf of....

(Bank) address.

( BANKER'S SEAL)

## Annexure – IX

### INTEGRITY PACT

Between

MMTC Limited hereinafter, referred to as "MMTC"

And

M/s. .... hereinafter referred to as "The Seller/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 Seller/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 has appointed Shri Bijoy Chatterjee as 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 Seller(s)/Vendor(s)/Bidder(s) the same information and will not provide to any Seller/Vendor/Bidder any confidential/additional information through which the Seller(s)/Vendor(s)/Bidder(s) 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.

Section2 – Commitments of the Seller(s)/Vendor(s)/Bidder(s)

1. The tender/auction/e-auction/e-sale/sale/purchase commits himself to take all measured 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 Seller(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 Seller(s)/Vendor(s)/Bidder(s) will not enter with other Seller(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 Seller(s)/Vendor(s)/Bidder(s) will not commit any criminal offence under the relevant Anti-Corruption Law of India., further the Seller(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 Seller(s)/Vendor(s)/Bidder(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Seller(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 Seller(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 Seller(s)/Vendor(s)/Bidder(s) will not instigate third persons to commit offences outlined above or be necessary to such offences.

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

If the Seller(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 Seller(s)/vendor(s)/bidder(s) into question. MMTC is entitled to disqualify the Seller(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 Seller(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 Seller(s)/vendor(s)/bidder(s) into question. MMTC is entitled to also exclude the Seller(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 Seller(s)/Vendor(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 Seller(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 1% of the Contract value or the amount equivalent to Performance Bank Guarantee whichever is higher.
3. If the Seller(s)/Vendor(s)/Bidder(s) can prove that the exclusion of the Seller(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 Seller(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 Seller(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 Seller(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 Seller(s)/Vendor(s)/ Bidder(s)

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

#### Section 7 – Criminal charges against violating Seller(s)/ Vendor(s)/ Bidder(s)

If MMTC obtains knowledge of conduct of Seller(s)/ Vendor(s)/Bidder(s) or of an employee or a representative or an associate of Seller(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 such as CBI.

#### 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 Seller(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 Seller(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 obtain 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 his 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)  
Seller/Vendor/bidder)  
(Official Seal)

(For & on behalf of  
(Official Seal)

Place:.....  
Date :.....

Witness 1.....  
Name :  
Address:

Witness 2.....  
Name :  
Address: