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

Tel. NO. 011- 24381285/ Fax No: 011-24366362

NOTICE INVITING TENDER

NO.: TENDER NO.MMTC/C&HC/15-16/HCC-01

DATED: 08/04/2015

MMTC invites Tender for Purchase of 10500 MT +/- 10% Imported Hard Coking Coal from interested Parties. The techno commercial bids and Price bids have to be submitted physically by 14.00 Hrs. IST on 15.4.2015

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

NIT No.MMTC/C&HC/15-16/HCC-01 dated 08/04/2015

Last Date of Submission of Bids: 15.4.2015 at 14:00 Hours

OPEN NOTICE INVITING TENDER (NIT) FOR PURCHASE OF IMPORTED HARD COKING COAL FOR SUPPLY TO NEELACHAL ISPAT NIGAM LIMITED, ODISHA.

MMTC Limited, A Government of India Enterprise, having its Corporate Office at Core-I, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003 invites open tender in **two bid** system from suppliers/traders for supply of 10500 MT +/- 10% of imported washed hard coking coal (size 0-50mm) by railway rakes/ road. Coking Coal to be delivered at integrated steel plant, M/s.Neelachal Ispat Nigam Limited (hereinafter called NINL), at Kalinga Nagar Industrial Complex, Duburi - 755 026, Jajpur, Odisha, as per following specifications, terms & conditions:-

The Bidders are required to submit their sealed bids as per following schedule:

DUE DATE FOR SUBMISSION OF BOTH TECHNICAL AND PRICE BIDS	15.4.2015 by 14.00 hrs
DATE AND TIME FOR OPENING OF TECHNICAL BIDS	15.4.2015 at 14.30 hrs
DATE AND TIME FOR OPENING OF PRICE BIDS	15.4.2015 at 15.00 hrs
OFFERS TO BE VALID UPTO	30.4.2015 till 17.30 hrs

The offer (s) is / are required to be submitted through **Electronic Mode** for which the bidder may log on to website <https://mmtc.eproc.in> OR through **Physical Mode** for which bidders have to submit their bids in **two separate sealed envelopes** i.e. one for “Technical bid” containing documents as mentioned under Eligibility Criteria including signed technical-bid portion on each page of this tender as a mark of acceptance and second for “Price Bid” containing only quoted price per MT in INR for material tendered with name of loading station and price per MT, (showing separate prices for Rail and Road deliveries) delivered at NINL Plant, Duburi, Jajpur District, Odisha. The entire information to be mentioned in technical bid and price bid should be type written/downloaded from website without any change. Any deviation from the above procedure in submission of bids, will incur rejection of the bids straightway. Bidders can depute their authorized representatives during opening of technical and price bids, if they desire.

In case bidders fail to depute their representative during such opening of bids, no subsequent representation would be entertained relating to the tender process. This NIT is available in MMTC & Govt. Web site i.e. (www.mmtclimited.gov.in & <http://eprocure.gov.in/cppp/>). The NIT can be downloaded from the websites and the bidders are required to submit the bids as per tender so downloaded without any change/ modification/ alteration/ deletion etc. In case of any deviations in terms and conditions come to the notice of MMTC at any stage, the bid will be rejected.

MMTC reserves the right to cancel this tender without assigning any reason.

PART I

CLAUSE 1

ELIGIBILITY CRITERIA

In order to become eligible to participate in the above Tender prospective bidder(s) must submit self attested copies of following documents along with Technical Bid :-

(i) Self certification of copy of Bill of Lading of imports giving details of the origin, source of supply, brand of coal along with the Load Port Analysis Report / Test Certificate carried out by a Independent Inspection Agency of repute at Load Port and 20 Kg. of Sample to be handed over to MMTC, Bhubaneswar for onward submission to NINL (ii) In case the Seller is offering imported cargo which is in transit, a copy of the Load Port Analysis Report carried out by a Independent Inspection Agency of repute at Load Port needs to be submitted (iii) If the material is within India and the same is being offered, disport analysis report needs to be submitted certifying the specifications of the cargo (iv) PAN card ; (v) VAT Registration Certificate clearly indicating the commodity being dealt ;(vi) A copy of Service Tax Registration Certificate (vii) CST Registration Certificate for coking coal (viii) Local / Registered Office address with FAX /E-mail ID/ Telephone number(ix) The deliveries shall be affected Rly. Rakes or by Road to NINL Plant and the name of the loading station should be clearly specified in the bid. (x) All the pages of the tender notice i.e. NIT, must be stamped and signed by the bidder and submitted with technical bid as a token of acceptance of the terms and conditions.

(b) EMD of Rs.20 Lakhs in the form of Demand Draft/Banker's Cheque favouring MMTC Limited, payable at New Delhi or through RTGS favouring MMTC Limited, New Delhi. RTGS A/C details are as under:-

MMTC Limited

Bank: State Bank of Hyderabad,

Branch: Scope Complex, New Delhi-110003

A/c No. 52142903753, RTGS No.SBHY0020511

In case wrong information with regard to the eligibility criteria or otherwise is furnished by any bidding party, the bidder shall be debarred from entering into any commercial transaction of any nature with MMTC for a period of one year which can be extended up to three years.

CLAUSE 2

SALIENT FEATURES OF NIT: 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	20% Minimum 28% Maximum	20% Minimum 32% Maximum
	b) Ash	8.5% Maximum	11% Maximum
3.	Sulphur (B5 1016 – 1973)	0.50% Maximum	0.80 % Maximum
4.	Crucible Swelling Number (CSN) (ISO – 501 – 1981)	5 Minimum	5 Minimum
5	a) Mean Max. Reflectance Vitrinite (ISO – 7404)	1.10 Minimum 1.25 Maximum	1.10 Minimum 1.30 Maximum
	b) Vitrinite percentage (ISO – 7404)	50% Minimum	50% Minimum
	c) Vitrinite Distribution V9-V14) (ISO – 7404)	75% Minimum	75% Minimum
6	Gieseler Plastometer Test (ASTM D-2639) Maximum Fluidity (ddpm)	300 Minimum	300 Minimum

In the event of deviation from the above specifications, MMTC/NINL reserves right to cancel entire or part of the Purchase Order with / or without penalties.

CLAUSE 3

Quantity & Delivery period

The entire cargo need to be delivered at NINL Plant by 25.4.2015 with 7000 MT to be delivered by 22.4.2015.

Quantities can be increased or decreased at MMTC's option during the above period. Further, MMTC reserves right to extend the delivery period as per requirement of NINL.

The seller shall make efforts to supply the agreed quantity only by railway rakes and in case they are unable to do so due to reasons beyond their control, they on producing the documentary evidence to the buyer on placement of indents within the delivery period with railways which may lead to delay in dispatch, in such case with the consent of the buyer they can supply the material by road. In case the material is delivered by road, the payment shall be made only for material/quantities actually received at the NINL plant. In case of despatches made by road, seller shall make its own arrangement for unloading the material at designated place inside NINL plant premises.

CLAUSE 4

Destination

By Rake: Designated Railway Siding of Neelachal Ispat Nigam Limited, Duburi (Siding Code-NINS), Sukinda Road Railway Station, Distt. Jajpur, Odisha.

By Road: At plant premises (Neelachal Ispat Nigam Limited, Duburi. Distt. Jajpur, Odisha).

CLAUSE 5

Preloading

Seller has to ensure loading of material in the wagons/lorries fit for loading of coking coal and arrange packing of doors properly to prevent loss of cargo en-route destination. The seller must clean each and every wagon/lorry before loading of the material to avoid any contamination of material.

CLAUSE 6

Price

Price shall be in Indian Rupees per MT delivered at NINL Plant/NINL Railway Siding with clearly specifying the name of the loading station. The price shall be all inclusive of taxes/ duties etc.

In case the Seller arranges the supplies of the cargo within the state of Odisha, MMTC shall be the Buyer and Seller shall raise the sale invoice on MMTC, Bhubneshwar, who shall issue the Purchase Order.

In case the Seller arranges the supplies of the cargo from outside the state of Odisha, NINL shall be the buyer and seller shall raise the Sale invoice directly on NINL who shall issue the Purchase Order.

CLAUSE 7

Penalty

Penalties shall be imposed by the Buyer on Seller. In case of any short supply in the agreed quantity, Buyer shall levy a Penalty of 5% of the value of short delivered quantity on the Seller (as per details given in **Annexure I**).

Imposition/ Waiver of the Penalty clause shall be at the sole discretion of the Buyer and the same cannot be disputed. However, Buyer at their sole discretion may waive Penalty due to any unforeseen circumstances beyond the reasonable control of the Seller, provided the Seller notifies the Buyer with documentary evidence in original with regard to the following:

1. Documentary evidence that the full agreed quantity was available and was in custody of the Seller during the agreed delivery period.
2. Original railway indents were placed with railways within the agreed delivery schedule but the rakes could not be made available by Railways and also Seller should be able to satisfy the Buyer with submission of e-Demand Confirmation Slip for Placement of Indent with due acknowledgement of Railway Authority. However no exemption will be given in Penalty in case the Seller has agreed to deliver material by road.

CLAUSE 8

Weight

Quantity, through rail/road shall be final at destination at NINL plant and shall be determined as per the weight at NINL Plant rail weigh bridge/road Weigh Bridge.

CLAUSE 9

Sampling and Analysis of cargo

Pre despatch Sampling and Analysis shall be conducted from the lot available with the Seller at their loading point by an approved / recognized Public analyst appointed by MMTC/NINL, who shall draw samples and

analyze for the quantity delivered by the seller. The Public analyst shall determine the specifications (Chemical and Physical) of the coking coal. The Public analyst shall provide an analysis certificate showing detailed analysis results. Based on the Load port test certificate the Buyer shall confirm loading of the consignment from the specific lots.

The Public Analyst shall prepare five sample packets. The Seller and Buyer are free to nominate their representatives to witness the sampling and sealing process of the sample packets. Out of above, two sample packets will be handed over to the representative of buyer, one to seller's representative and one will be retained by the public analyst to conduct the analysis. In case recourse has to be taken for umpire analysis, the fifth set of sample packets (i.e. the umpire's sample) preserved under the safe custody of the analyst concerned, will be used.

Cost of such sampling / analysis by the public analyst will be to the seller's account.

Upon receipt of material at NINL site, Rake-wise/Lorry-wise Sampling and Analysis will be conducted by NINL at NINL Lab, Duburi.

CLAUSE 10

Payment

Provisional Payment of 90% will be made by the Buyer to Seller on receipt of material at NINL plant and after receipt of Analysis Certificate from NINL Lab at Duburi certifying quantity as well as quality of material as per specifications in the tender.

Balance payment will be released on the basis of Analysis Report of a Third Party Independent Inspection Agency, appointed by the Buyer for Sampling and Analysis purposes. The cost of such analysis shall be borne by the buyer.

CLAUSE 12

Default in Delivery

In the event of any default in the delivery schedule or non-performance of the contract by the Seller, the Buyer reserves the right to forfeit the Performance Bank Guarantee.

CLAUSE 13

Performance Bank Guarantee

5% of the cargo value within 3 working days of awarding the contract.

MMTC/NINL can extend the delivery period at sole discretion beyond 25.4.2015, subject to levy of pre-determined liquidated damages@1% per week, subject to maximum of 5%.

In case of supplies from within the state of Odisha, MMTC shall issue the purchase order and the pro forma of the Performance Bank Guarantee is as per Annexure II. On receipt of Performance Bank Guarantee, a Sale Purchase Contract will be signed between the Buyer and Seller and thereafter EMD shall be returned to the successful bidder. Un-successful bidder(s) shall also get back their EMD(s) after 5 working days from the date of work order issued to the successful bidder.

However, in case the supplies are from outside the state of Odisha, the seller shall issue a performance Bank Guarantee as per the proforma of NINL which shall be provided to the L1 bidder by NINL. On receipt of Performance Bank Guarantee, a Sale Purchase Contract will be signed between the Buyer and Seller and thereafter EMD shall be returned to the successful bidder. Un-successful bidder(s) shall also get back their EMD(s) after 5 working days from the date of work order issued to the successful bidder.

CLAUSE 14

Arbitration : Any dispute or difference whatsoever arising between the parties out of or relating to construction, meaning, scope, operation of this contract or validity or breach thereof shall be settled by Arbitration by Sole-Arbitrator to be nominated by the General Manager, MMTC, Bhubaneswar. The provisions of Arbitration and Conciliation Act, 1996 shall apply to such arbitration proceedings. The Venue of the arbitration shall be Bhubaneswar, Odisha.

CLAUSE 15

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 Government, fire, floods, explosions, epidemics, strikes, 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 fulfilment 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 instalment 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 fulfil its obligations under the present contract must within 10 days of occurrence of any of the cause mentioned in the contract 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 cause 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.

The delivery period in respect of undelivered quantities may be extended at Buyer's option.

If no mutual agreement for extension of time for supply of cargo is arrived at, the contract may be terminated at the option of the buyer without any liability.

CLAUSE 16

Authorisation of Agent/Representative

For the bid submitted by agent / representatives, the name, address & bank attested specimen signature of their principal is to be furnished along with a letter of authority issued by the principal authorizing the agent/representatives to participate on their behalf in the event agent/representatives wants to witness bid opening.

CLAUSE 17

Contract

Tender documents forming part of the contract shall be signed by the bidder on each page and furnished along the Technical Bid as token acceptance of the terms and conditions. One copy of the Purchase Order(s) to be issued by buyer to the successful bidder(s) shall also be duly stamped & signed by the supplier and submitted to buyer.

CLAUSE 18

Submission of Tender Bid

The bids are to be submitted through **Electronic Mode** for which the bidder may log on to website <https://mmtc.eproc.in> (OR) through **Physical Mode**

for which bidders have to submit their bids in **two separate sealed envelopes**:

(a) **Techno-Commercial Bid**: As per details given in Clause under Eligibility Criteria.

(b) **Price Bid**: Price per MT in Indian Rupees clearly specifying the name of the loading station.

Both the envelopes super scribing **Part – I** and **Part-II** separately for Tender NIT No.MMTC/C&HC/15-16/HCC-01 dated 08.04.2015 for supply of Hard Coking Coal is to be put in one sealed envelope. The envelopes should be addressed to General Manager (Steel) and be dropped in a sealed condition in the Tender Box to be kept on 3rd Floor, MMTC Limited, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003.

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.

CLAUSE 19

General Conditions:

(a) For evaluation of the bid, the landed cost at NINL plant, Duburi, Jajpur, Odisha shall be considered.

(b) Buyer reserves the right to cancel or, reject any or all bids without showing any reason whatsoever and the decision of Buyer in this respect shall be final and binding and shall not be liable to be questioned in any court or before any authority.

(c) Buyer also reserves the right to allocate the full quantity to a single supplier or split the full quantity to different suppliers who accepts the L-1 price.

CLAUSE 20

Termination of Contract

The buyer may at any point of time by notice in writing summarily terminate the contract without any complain whatsoever from the seller.

i) In the event of insolvency of the seller/insolvency of any partner of the seller's firm/dissolution of the seller's firm/winding up of the sellers company on appointment of receiver.

ii) If the seller commits the breach of the contract even though not specifically provided for herein, provided always that such determination shall not prejudice any right of action or remedy which shall accrue or shall accrue thereafter to the buyer and provided also that the seller shall be liable to compensate the buyer for damages, claims, losses and expenses etc.

CLAUSE 21

Validity

The tendered price will remain valid till 17.30 hrs on 30.4.2015 for acceptance by buyer.

The details of tender will be available in the MMTC website www.mmtclimited.gov.in & Govt e-procurement portal www.eprocure.gov.in/cppp/

CLAUSE 22

Integrity Pact

Seller will have to sign Integrity Pact with the buyer (as per **Part II**) which shall be an integral part of contract between Buyer and Seller.

(End of Technical Bid portion)

NIT No. MMTC/C&HC/15-16/HCC-01 Date – 08/04/2015

(Last Date of submission of Bids: 15.04.2015 at 1400 Hours)

PART-II

PRICE BID

Price

Price Rs. _____ per MT all inclusive of taxes/duties/levies etc. delivered at NINL Plant railway siding/NINL Plant raw material yard (for road delivery) clearly specifying the name of the loading station.

Rate PMT on plant delivery basis to be given separately for delivery by rail and/or road.

In case the Seller arranges the supplies of the cargo within the state of Odisha, MMTC shall be the Buyer and Seller shall raise the sale invoice on MMTC, Bhubaneswar, who shall issue the Purchase Order.

In case the Seller arranges the supplies of the cargo from outside the state of Odisha, NINL shall be the buyer and seller shall raise the Sale invoice directly on NINL who shall issue the Purchase Order.

The price offered shall remain valid till 1730 hrs. on 30.4.2015 for acceptance by buyer.

Place: _____ Signature of the Bidder with Official Seal

Date: _____

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 has 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 invitation to 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)

(For & on behalf of

(Official Seal)

(Official Seal)

Place:

Date:

Witness 1.....

Name:

Address:

Witness 2.....

Name:

Address:

ANNEXURE- I

TENDER NO.MMTC/C&HC/15-16/HCC-01 DATED: 08/04/2015

**PENALTY FOR DEVIATION FOR HARD COKING COAL/ PENALTIES
FOR EVALUATION OF OFFERS FOR HARD COKING COAL**

Sl. No	Technical Particulars	Basis for application of Penalty in price for evaluation of Guaranteed Specifications	Penalty in price in INR 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 8.50% upto absolute Maximum Tolerance Limit of 10 %	INR 75 (Indian Rupees Seventy five only)
(ii)	Sulphur	Penalty for every increase of 0.1% (fractions pro-rata) in Sulphur content, in excess of guaranteed Limit of 0.60% upto absolute maximum tolerance limit of 0.80%.	INR 60 (Indian rupees sixty 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 (10%), 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 12 % . Material with Total Moisture content exceeding Absolute Maximum Tolerance limit of 12% 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.			

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 Buyer).
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 INR.....
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 INR) 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 Rupees.....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 thereto 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 INR). 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 thefrom time to time or to postpone for any time or from time to time, any of the powers exercisable by MMTC against the saidand 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 INRonly 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 THISDAY OF
.....2015**

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

(Bank) address.
(BANKER'S

SEAL)