



**Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road New Delhi – 110 003, India  
Phone #:0091-11-24381513/24368072 Fax #: 24364106**

[www.mmtclimited.com](http://www.mmtclimited.com)

### **GLOBAL NOTICE INVITING TENDER**

MMTC/CO/Min/Bauxite(E)/18-19/11524 dated 13<sup>th</sup> December, 2018

MMTC invites global e-tender for export of Bauxite (Metallurgical Grade) of Indian Origin from interested Overseas Buyers. The last date of submission is 1200 hrs IST on 03.01.2019.

The complete details of the e-tender are available at [www.mmtclimited.com](http://www.mmtclimited.com), <http://eprocure.gov.in> and <https://mmtc.abcprocure.com>.

Corrigendum issued, if any, shall only be hoisted on websites mentioned above.

GENERAL MANAGER (MINERALS)



**Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road New Delhi – 110 003, India  
Phone #:0091-11-24381513/24368072 Fax #: 24364106**

[www.mmtclimited.com](http://www.mmtclimited.com)

Dear Sirs,

Sub : Global e-tender for export of Bauxite (Metallurgical Grade) of Indian Origin

Established in 1963, MMTC Limited, a Government of India enterprise is a leading international trading company. It is engaged in the trade of minerals, agro products, precious metals, non-ferrous metals, coal & hydrocarbon, fertilizers etc. MMTC is one of the major global players in the minerals trade. For Further details please visit our website [www.mmtclimited.com](http://www.mmtclimited.com)

As per the Foreign Trade Policy 2015-2020 there are no policy restrictions on the export of bauxite.

MMTC Limited undertakes export of Bauxite (Metallurgical Grade) to overseas market by procuring the items from the Indian suppliers on back to back basis. MMTC invites global tender in two bid system for export of Bauxite (Metallurgical Grade) from the interested overseas buyers. Interested parties are requested to submit their offers as per the tender documents. The last date of submission of tender is at 1200 hrs IST on **03.01.2019**.

The Tender notice consists of two sections. Section – I (Tender description) and Section-II (Formats of documents). The bidders are requested to read the entire tender documents before submitting the bids.

The overseas bidders may submit their Technical bids along with supporting documents in a sealed envelope or through e-mode. Similarly, price bid may be submitted in physical mode in separate envelope or electronic mode on MMTC's E-Procurement Portal <https://mmtc.abcprocure.com>

The bidders shall super scribe the name of the company, contact person, phone, fax, e-mail address, tender no. and closing date on both the envelopes. Incomplete offers or offer received after the closing time and date shall be rejected.

The envelopes containing technical and price bid documents, in case price bid submitted in physical mode, may be addressed to Shri L.M.Bagga, General Manager, Minerals Division at the below-mentioned address as to reach latest by **1200 hrs IST on 03.01.2019**.

MMTC LIMITED  
MINERALS DIVISION  
CORE-1, SCOPE COMPLEX,  
7, INSTITUTIONAL AREA, LODHI ROAD  
**NEW DELHI-110 003, INDIA**  
Cell : +918800896565



Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road New Delhi – 110 003, India  
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## SECTION – I

### 1.0 COMMODITY

Bauxite (Metallurgical Grade)

### 2.0 QUANTITY

100,000 MT ( $\pm 10\%$  AT BUYER'S OPTION)  
(Qty may be increased subject to mutual consent of Buyer and the Seller)

### 3.0 LOADING PORT

OKHA PORT, GUJARAT, INDIA

### 4.0 SHIPMENT PERIOD

January/February' 19

### 5.0 ORIGIN

Indian origin

### 6.0 SPECIFICATIONS

#### Chemical Composition (On Dry Basis)

Al <sub>2</sub> O <sub>3</sub>	45.00% basis- 43% min
SiO <sub>2</sub>	8.00% basis- 9% max
Fe <sub>2</sub> O <sub>3</sub>	18.00% Max.(indicative)
TiO <sub>2</sub>	4.00% Max. (indicative)
CaO	4.00% Max. (indicative)
LOI	30.00% Max. (indicative)
Monohydrate	4.00% Max.( indicative)
Free Moisture	8.00% Max (indicative)

Size: 0 to 150 mm	100%
Type	Trihydrate Bauxite

### 7.0 PRICE (To be quoted)

The buyer shall quote Price in USD PDMT FOB OKHA Port India (In bulk) for Bauxite (Metallurgical Grade).

Please see Price Bid format at Annexure II.

## **8.0 BONUS/ PENALTY RATE**

In case there is any difference between the specifications as per Article 6 and analysis report as per Article 9 of this Sale contract, price will be adjusted at the rate mentioned below and documents will not be treated as discrepant.

### **(A) For Al<sub>2</sub>O<sub>3</sub> Content**

#### **Bonus/Penalty:**

Al<sub>2</sub>O<sub>3</sub>: The base price shall be increased by USD 1.00 PDMT for each 1% (fraction prorata) of Al<sub>2</sub>O<sub>3</sub> above 45% and the base price shall be decreased by USD 1.00 PDMT for each 1% (fraction prorata) of Al<sub>2</sub>O<sub>3</sub> below 45% up to 43%. Below 43% double penalty prorata basis.

### **(B) For Sio<sub>2</sub> content:**

#### **Bonus/Penalty:**

SiO<sub>2</sub>: The base price shall be decreased by USD 1.00 PDMT for each 1% (fraction prorate) of SiO<sub>2</sub> above 8% and up to 9% and the base price shall be increased by USD 1.00 per PDMT for each 1% decrease ((fraction prorata) in SiO<sub>2</sub> below 8%. Above 9% double penalty prorata basis

### **(C) For Physical composition**

Penalty @ USD 0.20 PWMT shall be applicable for each 1% deviation in size guaranteed at clause 6 above.

### **(D) No penalty is applicable for deviations in other elements like Fe<sub>2</sub>O<sub>3</sub>, Tio<sub>2</sub>, Cao, LOI, Monohydrate, Free Moisture, etc.**

## **9. SHIPMENT**

Buyer shall nominate a Vessel with fully classed Highest Lloyds or equivalent first class classification society, ISM/ITF approved, P&I Covered and the vessel shall not be older than 15 Year. Vessel shall be fitted with minimum 4 x 25t fully functional cranes + 4 x 10 or 12 CBM electro-hydraulic grabs.

For shipment, Buyer shall notify Seller of 1) Name of the Vessel, 2) Quantity of the Bauxite to be loaded 3) mode of loading and 4) estimated time of arrival (ETA) at loading port together with Lay days of 10 days. Buyer shall nominate a performing vessel to seller and the seller shall confirm acceptance of the vessel within 1 working day after receipt of Buyer's nomination.

The buyer shall arrange the vessel or their agent to notify seller or their agent three notices of the ETA of the vessel at the loading port. The first of such notice shall be given 7 (seven) days prior to the ETA of the vessel, the second to be given 48 (Forty eight) hours prior to the ETA and the third to be given 24 (Twenty Four) hours prior to the ETA.

## **10. LOADING TERMS**

- a) Seller shall deliver the cargo to buyer in bulk, seaworthy trimmed, alongside Seller's wharf/anchorage vessel being always afloat to a maximum permissible draft, when fully loaded at the place of loading.
- b) Seller shall load ore aboard the vessel at the following rates per weather working day of twenty four (24) consecutive hours Saturdays, Sundays and Holidays included but statutory holidays excepted.

<u>Size of vessel</u>	<b>Loading Rate</b>	
	<u>Okha Port Berth/Anchorage</u>	
	By Vessel's Grabs	By Vessel's Grabs
Up to 50,000 DWT	8,000 WMT Basis 4 working cranes/ Grabs of 25 MT per grab.	
Over 50,000 DWT	10,000 WMT Basis 4 working cranes/ Grabs of 25 MT per grab.	

- c) The length of the berth at port okha is 190 mts and available draft at berth is 7.5 mts for calculation purpose and depending upon tide at the time of arrival of the vessel. On this berth buyer can bring in a supramax vessel where part loading of 25000 MT can be done on berth and balance quantity can be loaded at anchorage. If the buyer is planning to bring a panamax vessel then it has to be loaded 100% at anchorage.
- d) Sellers confirm loading will take place partly at berth and balance quantity at anchorage in Port Okha and have received confirmation from all appropriate authorities where the vessel nominated by charterers can be safely loaded at the anchorage.
- e) Lay time for loading shall commence 12 running hours after tendering of notice of readiness. In case loading commences earlier, actual time used to count. In case loading has to be interrupted due to reasons of responsibility of the vessel, such time lost shall not count as Lay time.
- f) Upon arrival of the vessel within the limits of the loading port and after
- i. Ensuring that the hatches/holds of the vessel have been thoroughly cleaned,
  - ii. Obtaining free pratique and;
  - iii. Ensuring that the vessel is load-ready in all respects, the Master of the vessel shall serve the Notice of readiness of the vessel to load the Materials (i.e. Master's N/R) on the Ahmedabad/New Delhi offices of the SELLER at e-mail [ssmodh@mmtclimited.com](mailto:ssmodh@mmtclimited.com) / [mbagga@mmtclimited.com](mailto:mbagga@mmtclimited.com) during normal office hours which are 9.30 AM to 5.30 PM from Monday to Friday. The master's N/R shall not be served on Saturday/Sundays/Port holidays/ Charter Party holidays.

#### **DEMMURRAGE/DESPATCH**

<u>Size of vessel</u>	<b>Demurrage</b> As per charter party but Maximum <i>per 24 hours day(prorata or part)</i>	<b>Despatch</b> (in USD)
Up to 50,000 DWT	USD 8,000 Max	USD 4,000 Max
Over 50,000 DWT	USD10,000 Max	USD 5,000 Max

Immediately after completion of loading of the materials into vessel and before the sailing of the vessel from the loading port(s) a statement of facts shall be made out at the loading port(s) duly signed by and distributed amongst; (a) Master of the vessel/Agent of the vessel at the loading port (b) Agents/Representative(s), if any of the BUYER at the loading port and (c) representative of the SELLER at the loading port.

The Master of the vessel shall deliver a stowage plan in triplicate duly signed by him before loading and immediately after completion of loading and sailing of the vessel, if sought by the SELLER.

Based on the Statement of Facts, the computation of lay time allowed and lay time used shall be based on provisions and its sub clauses herein above. Dispatch money, if any, calculated on the basis of "Working time Saved" shall be arranged to be remitted by the BUYER to the SELLER within thirty days from the date of receipt of the claim of the SELLER with lay time statements. And demurrage shall be remitted within thirty days from date of receipt of claim from buyer.

Settlement of dispatch/ demurrage shall be effected upon mutual agreement between buyer and seller.

**OTHER TERMS AND CONDITIONS:** Counting of Lay time:

- i. Time lost for all draft surveys on the account of the buyer.
- ii. Time for shifting of vessel from anchorage point to loading berth shall be to the account of the buyer.
- iii. BL quantity shall be the quantity loaded which shall be determined as per Article 10 of Sale Contract. The release instructions for the bill of lading should be arranged by the buyers immediately after completion of loading.
- iv. If any damage is caused to the vessel at the loading port at the time of loading of the Materials by the Stevedores engaged by the SELLER, the claim, if any, for such damage shall be settled directly between the ship owners and stevedores. The Master of the vessel shall lodge such claim, if any, on the stevedores, promptly after the damage has been sustained and then confirm in writing duly supported by the Third Party damage reports, prior to the departure of the vessel from the loading port, failing which the claim shall stand barred and the stevedores shall stand absolved and relieved of all responsibility. Subject to compliance with the conditions enumerated in the clause.
- v. The release instructions for the bill of lading should be arranged by the Buyer immediately after completion of loading but in any case within three (3) working days from the date of completion of loading failing which Seller reserves the right to charge interest from the buyer at the rate of 18.5% per annum for the period from the 4<sup>th</sup> day of completion of loading and trimming of the vessel till the Bill of lading is handed over to the Seller or its authorized representative.

**11.0 VALIDITY**

The Buyer shall keep their bids valid for a period of 10 (Ten) calendar days from the date of closing of tender excluding the date of closing. In case the 10<sup>th</sup> day falls on a Saturday/Sunday/Holiday or remains closed for the Seller, such bids will be deemed to be automatically extended to be valid up to the next working day of seller.

**12.0 EARNEST MONEY DEPOSIT**

All Bidders (except MTPL Singapore which is a 100% subsidiary of MMTC) are required to submit EMD @ US\$ 10000 (USD Ten thousand only) in the form of a bank guarantee (Proforma enclosed at appendix A) through a scheduled commercial bank (other than Gramin bank and Co-operative bank, Dhanlakshmi Bank and Nainital Bank) in New Delhi (or NCR), India in favour of MMTC Limited. The BG should be valid till 28.02.2019. Tender without proper EMD will not be considered. BG issuing bank should directly forward the original BG to MMTC, New Delhi. The bidder shall submit copy of BG along with tender documents.

**OR**

Bidders may remit EMD by fund transfer to the bank account of MMTC Ltd., Ahmedabad, bank detail of which is as follows:

Name : MMTC Limited  
Bank : State Bank of India  
A/C No. : 10371778358  
IFSC Code : SBIN0004152  
TEL NO : 079-26426897

BG or bank transfer for EMD/PG shall strictly be from the account of the Bidder and no financial security submitted in way of BG, bank transfer or LC shall be accepted from any party other than Bidder in the Tender. All such bids with third party financial security shall be squarely rejected by MMTC.

No interest shall be payable by MMTC on EMD by way of fund transfer to MMTC bank account.

EMD of the unsuccessful bidder will be returned after finalization of tender. All exchange loss/gain and bank charges shall be to bidder's account. EMD of successful bidder shall be returned after receipt of PG and its confirmation from the issuing bank in case of BG.

In the event of failure on account of non submission of PG by the successful bidder or signing of contract within 03 working days from the date of issuance of contract by MMTC, MMTC reserves the right to invoke/forfeit the EMD amount submitted by the bidder. The MMTC also reserves the right to debar such bidder from participating in any future tender of MMTC or any other action as deemed fit.

Original BG should preferably reach MMTC at least 2 working days prior to the opening of tender so that confirmation of the same can be obtained before opening of bids. In case of EMD through bank transfer, bidder shall be required to submit a SWIFT copy along with technical bid documents. Bidder would preferably remit the amount to MMTC's Bank account 2 working days prior to the last date of submission of bid.

### **13.0 ELIGIBILITY CRITERIA**

Bidder shall fulfill the following criteria and submit supporting documents :-

- i) Turnover: Minimum annual turnover of US\$ 3 million during last financial year.
- ii) Networth : Minimum networth of US\$ 1 million as on last annual balance sheet.
- iii) Past experience: Minimum experience of one year in minerals business.
- iv) Credit rating: Minimum 'satisfactory' or equivalent (i.e. from D&B, S&P, Moody's, ICRA, CRISIL, CARE) issued after 31.03.2018 valid as on tender opening date.
- v) Bidder shall submit Bank reference report issued on or after 31.03 2018 valid as on tender opening date.
- vi) Bidder shall submit Earnest Money Deposit (EMD) of USD 10000 for entire tender quantity in the form of Bank Guarantee (BG format enclosed at Appendix - I)/ through fund transfer. BG issuing bank should directly forward the original BG to MMTC. The bidder shall submit copy of BG along with tender documents.

MTPL, Singapore a 100% subsidiary of MMTC, will be exempted from submission of EMD, PG and establishment of letter of credit towards the value of cargo provided they submit an undertaking that they have obtained EMD from their customer and shall obtain PG and L/C from their customers, as per terms of this tender.

### **14.0 EVALUATION OF OFFERS**

MMTC shall evaluate technical offers of the bidders received within due date and time. The bidder shall submit price bids in electronic or physical mode. Thereafter, MMTC shall open the price bids of those bidders who have qualified in their technical bids. MMTC shall award the contract to the bidder (H1) subject to acceptance of price bid by back-up supplier. In case, there is more than one

H-1 bidder, contract will be awarded to the bidder who offers better price in sealed bid on negotiation for which H1 bidders would be informed separately.

#### **15.0 AWARD OF CONTRACT**

MMTC shall offer the cargo to the highest (H1) bidder subject to reconfirmation of price by the back-up supplier of the cargo. MMTC and the successful bidder shall enter into a sale contract as per standard terms and conditions of MMTC (Contract format enclosed at Appendix - IV). In case the successful bidder fails to forward the signed sale contract within 3 working days from the date of issuance of contract by MMTC, the seller (MMTC) reserves the right to invoke the bank guarantee/forfeit the cash deposit submitted by the bidder as EMD.

#### **16.0 PERFORMANCE GUARANTEE**

MMTC shall issue a letter to the successful bidder accepting the price and shall also indicate amount of performance guarantee required from the successful bidder. The bidder shall furnish a performance bank guarantee @ 5% of contracted value (with +10% tolerances) in favour of MMTC limited, New Delhi within 10 calendar days from the date of issuance of signed sale contract by MMTC. Nomination of vessel shall be accepted only after receipt of original bank guarantee and its confirmation by issuing bank. This performance guarantee shall be valid till 30.04.2019. In case the successful bidder fails to establish the requisite performance bank guarantee within stipulated time, MMTC reserves the right to invoke the bank guarantee/forfeit cash deposit submitted by the bidder as EMD.

MMTC reserves the right to invoke this performance guarantee in case the buyer fails to perform the contractual obligations as per sale contract.

(Performance Bank Guarantee format is attached at Appendix-V)

#### **17.0 PAYMENT TERMS**

The buyer shall establish an irrevocable and without recourse to drawer workable letter of credit (acceptable to MMTC) payable at sight valid for 75 days after latest date of shipment in USD in favour of the sellers/beneficiaries (**MMTC Limited, 2, Nagindas Chambers, Usmanpura, Ashram Road, Ahmedabad-380 014, Gujarat, India**) for export from Okha Port to cover 100% value of the cargo with tolerance for quantity and value as per contract from any of the top 50 banks (ranked on 31.05.18) by bankersalmanac.com link <http://accuity.com/resources/bank-ratings/> including their branches located anywhere or M/s. ANZ, M/s. DBS, M/s. RBS, M/s. Bank of Thailand, M/s. Standard Chartered Bank, M/s. HSBC, M/s. BN Paribas, M/s. Nova Scotia or foreign branches of India Nationalized Banks. The said letter of credit shall be established within 10 calendar days from the date of issuance of signed sale contract by MMTC to the buyer. The LC shall be advised through State Bank Of India, International Banking Division, 58, Shrimali Society, Navrangpura, Ahmedabad – 380009 Gujarat (INDIA) SWIFT SBININ-BB219, Fax No. 91-079-26561178. The opening bank shall also add that the SWIFT is operating instrument and no further confirmation is required. The L/C shall allow negotiation of documents for 100% shipment value within 21 days after Bill of Lading date at the counter of beneficiary bank. Notice of readiness (NOR) shall be accepted only on receipt of workable L/C through SBI Ahmedabad and completion of pre-shipment formalities with customs/port authorities. The buyer shall nominate suitable vessel in such a manner so that seller shall get at least three working days prior to arrival of vessel at loading port for processing of pre shipment documents by the appropriate authority and payment of export duty and other statutory charges. L/C shall provide for T.T. reimbursement within two working days upon receipt of claim from the negotiating bank. All bank charges outside India shall be to the buyers account. L/C shall also provide for negotiations and acceptance of documents even with spelling, grammatical and other technical mistakes etc. for payment. LC instrument is subject to UCPDC600. Third party LC is not acceptable.

In case L/C is got established from a bank other than those listed above, MMTC shall have the option to get the L/C confirmed and all such L/C confirmation charges shall be payable by the buyer to MMTC before filing of shipping bill.



The seller shall claim the payment in two part A) Provisional Payment, B) Final Payment:

**A) PROVISIONAL PAYMENT**

The said LC shall be payable by telegraphic transfer reimbursement by opening bank within three working days against seller's sight draft for the amount of **98%(ninety eight percent)** of the value of this shipment. The weight certificate issued by mutually agreed surveyor by survey of ship's draft together with the certificate of analysis of sample and of the percentage of the free moisture loss at 105 degrees centigrade issued by mutually agreed surveyor shall be basis for seller's provisional invoice.

**B) FINAL PAYMENT**

The balance due to the seller after provisional payment shall be made through the Letter of Credit against seller's final invoice in one original and four duplicates delivered through the Bank. This invoice is to be based on assayer certificate as provided in Article 9 and Article 10 of contract issued within 60 days after Bill of Lading date. If umpire analysis is required, payment adjustment arising for this will be made when the umpire's certificate is available. In case analysis is not received by seller within 60 days after Bill of Lading date, the load port result shall form the basis for final invoice. Seller's certificate regarding non-receipt of discharge port certificate within 60 days after Bill of Lading date would be final.

**18.0 PAYMENT DOCUMENTS**

**18.1. DOCUMENTS FOR PROVISIONAL PAYMENT:**

Seller shall provide buyer through negotiating and opening banks for reimbursement of sale proceeds with the following documents for the provisional amount of 98% of sale value.

- i) Seller signed provisional commercial invoice in three originals and three copies for 98% value indicating value of commodity shipped, name of carrying vessel, contract number, L/C number and B/L Number.
- ii) Full set of "Shipped Clean on board" ocean B/L in three originals and three Non-negotiable copies made out to "Order", Blank endorsed marked "Freight Payable as per Charter party" notifying the party stipulated in the L/C. Quantity shown in Wet Metric Tons/WMT acceptable.
- iii) Certificate of Weight in one original and four copies issued by mutually agreed surveyor at the loading port certifying the actual surveyed weight of cargo shipped.
- iv) Certificate of Quality in one original and four copies issued by mutually agreed surveyor at the loading Port showing the actual result of the test of chemical composition and all other tests called.
- v) Certificate of Origin in one original and four copies issued by any chamber of commerce and industry in India.
- vi) Beneficiary's copy of shipment advice sent by e-mail to Buyer within five (5) working days after B/L date at the loading port advising L/C number, goods name, quantity, vessel name, shipment date, approximate invoice value, B/L Number and ETA of the vessel at discharging port.
- vii) Beneficiary's certificate certifying that they had sent to Buyers by e-mail one set of non negotiable documents, Including Bill of Lading, Provisional Commercial Invoice, Certificate of Quality, Certificate of Weight, Certificate of Origin and Shipment advice by e-mail within five (5) working days after the date B/L.

**18.2 DOCUMENTS FOR FINAL PAYMENT:**

Seller shall provide buyer through negotiating bank to opening bank for reimbursement of final payment with the following documents.

- i) Seller's final invoice in one original and four copies indicating value of commodity shipped, name of carrying vessel, the contract number and B/L Number less provisional payment.
- ii) Certificate of Quality in one copy issued by mutually agreed surveyor at discharge port, Scanned copy/photocopy is allowed.
- iii) Certificate of Weight in one copy issued by mutually agreed surveyor at discharge port, Scanned copy/photocopy is allowed.
- iv) In case of the agreed assayer's certificate of weight and / or quality is not received by the seller within 60 days after BL date, then the seller has right to submit the final invoice based on load port Certificate of Quality and/or Certificate of Weight issued by the assayer. In such case a declaration by the seller of non-receipt of SGS/Mitra SK certificate and the photocopy of load port weight and quality results to accompany documents instead of documents at (ii) and (iii) above. In case, it is decided to go for umpire analysis, copy of umpire analysis shall be attached in place of s.no. ii) above.

#### 19.0 DUE DATES

Submission of Technical Bids and Price Bids : 1200 hrs IST on 03.01.19  
 Opening of Technical Bid : 1215 hrs IST on 03.01.19  
 Opening of Price Bid : 1200 hrs IST on 04.01.19

#### 20.0 MODE OF SUBMISSION OF TENDER

The bidder shall participate in the tender through e-mode or physical mode.

#### 21.0 PROCEDURE FOR PARTICIPATION IN E-TENDER.

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

#### 21.1 Procedure for Obtaining Digital Certificate

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

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

#### 21.2 Procedure for Registering in E-Procurement portal

- (i) Further, the bidder will have to register with MMTC's E-Procurement portal. The bidder should have a valid user ID to access e-procurement portal of MMTC. For registering, please go to <https://mmtc.abcprocure.com> and follow the directions. After successful submission of registration details, please contact M/s. E-Procurement Technologies Ltd. (EPTL) (as given below) to get your registration activated. In case of any technical issues / difficulties pertaining to the e-Procurement portal bidders are advised to get in touch with the service providers helpdesk :

Vendor's Queries	Contact Numbers	Mail ID
New Bidder Registration (Portal Registration), Vendor's ID/ Profile Activation, Renewal of Vendor's ID.	+91-(79)- 68136866	<a href="mailto:info@abcProcure.com">info@abcProcure.com</a>
	+91-(79)- 68136878	
	+91-(79)- 68136845	

	+91-(79)- 68136841	
<b>Mr. Abhijeet Goware (Dedicated Helpdesk for MMTC)</b>	<b>+91 9265562826</b>	<b><u>abhijeet@eptl.in</u></b>
For Only, Technical Assistance related to e-Tender or e-Auction filling/ submitting (Offsite Team).	+91-(79)- 68136833	<u>support@abcProcure.com</u>
	+91-(79)- 68136849	
	+91-(79)- 68136850	
	+91-(79)- 68136854	
	+91-(79)- 68136848	<u>pankesh@eptl.in</u>

(ii) For minimum system requirements clients/bidders should be asked to refer to home page of the URL <https://mmtc.abcprocure.com> under tab Download/ Minimum System Requirements- V2.0

(iii) Bidders shall be advised to print and save bid submission receipt on submission of bids.

**22 Bidder shall submit their offers separately in the following two-bid format:**

- I) PART A: Technical Bid (Physical/Electronic mode) and  
II) PART B : Price bid (Physical/Electronic mode ).

**22.1 Part – A: TECHNICAL BID :**

Bidder shall fulfill the eligibility criteria as stated at Para 13 and submit the following supporting documents :

- Auditor’s Certificate** indicating annual turnover in last 3 years, networth and past experience as mentioned in eligibility criteria.
- Credit rating** Report (issued on or after 31.03.2018) from any one of the following agencies: ( D&B, S&P, Moody's, ICRA, CRISIL, CARE) valid on the date of opening of the technical bid.
- Bank reference** letter issued on or after 31.03.2018 valid on the date of opening of technical bid.
- Duly signed and stamped all documents given in **Section-I** of the tender notice.

MTPL, Singapore a 100% subsidiary of MMTC will be exempted from submission of Earnest money deposit, performance guarantee bond and establishment of letter of credit towards the value of cargo provided they arrange to submit an waiver from CMD of MMTC Ltd. or an undertaking that they shall/have take/taken back-up EMD, PG and LC from their buyer(s)

The above documents along with technical bid compliance form (as per Annexure-II) may be submitted physically in sealed envelopes to be dropped in tender box, by due date and time so as to reach **Shri L M Bagga, General Manager (Min), MMTC Ltd., Core-1, SCOPE Complex, 7, Institutional area, Lodhi Road, New Delhi-110003.** In case of electronic submission of documents, they may be submitted MMTC E-portal at <https://mmtc.abcprocure.com>.

Incomplete offer or offers received after the closing time and date shall not be accepted. The technical bids will be opened on due date and time. After scrutiny of technical bid documents, the price bids of only those bidders whose technical bids are acceptable will be opened and considered further.

**22.2 PART-B: PRICE BID:**

The bidders shall submit their price bids in electronic mode at MMTC E-portal at <https://mmtc.abcprocure.com> or in physical form before due date and time so as to reach **Shri L M**

**Bagga, General Manager (Min), MMTC Ltd., Core-1, SCOPE Complex, 7, Institutional area, Lodhi Road, New Delhi-110003** . The price shall be quoted in USD PDMT FOBST Okha Port and confirming validity of offer as per tender in the price bid format.

**22.3** Any bidder willing to participate in the tender opening process, may attend directly or depute their representative through proper authorization on their letter head with signatures in original clearly stating the name of firm, person, designation and his signatures.

**22.4** EMD of the unsuccessful bidder will be returned after finalization of tender. EMD of the successful bidders will be returned upon receipt of performance guarantee and confirmation of BG/fund transfer.

### **23.0 GENERAL CONDITIONS**

**23.1.** Subject to the terms and conditions set out herein, sale shall be made to the successful bidder for export on FOB basis only. Seller reserves the right to modify and amend the terms & conditions and announce the same at any time before the e-tender concludes. Announcements during the e-tender on the website and/or by fax including announcement of any additional conditions or correction in the catalogue and/or additions or deletions of items being offered for sale are binding on the bidder

**23.2.** Participation and bidding in this tender shall be treated as conclusive evidence of the fact that the Bidder is well aware about the Foreign Trade Policy of Govt. of India and export of Bauxite. The cargo for export shall be procured from the associate supplier of MMTC and all terms & conditions shall be on back to back basis with our supplier. Our associate supplier shall perform the export contract and MMTC will not be responsible for any quality, quantity or any other claim of the bidder. It shall also imply that the bidder has carefully gone through and understood the terms and conditions of e-tender including the amendments if any, prevailing at the time of tender. Seller and ABC Procurement will not entertain any complaints or objections once bid is placed.

**23.3** Seller and ABC Procure do not give warranty or guarantee of the quality, quantity, measurement, condition chemical composition of each lot/s that form the e-tender property and about its “end use” or fitness for a particular purpose. In the event of failure on account of (i) establishment of performance guarantee or (ii) signing of contract within 3 calendar working days from the date of issuance of contract by MMTC, the seller reserves the right to invoke the bank guarantee submitted by the bidder as EMD. The seller also reserves the right to debar such bidder from participating in any future tender of MMTC or any other action as deemed fit.

**23.4** The BG issuing bank must have a net worth of at least Rs.5000 million and Capital Adequacy Ratio of at least 9%.

**23.5.** MMTC shall have the right and authority to review / modify / amend any condition / format before the e-tender concludes.

**23.6.** After finalization of the sale price, MMTC will arrange to send standard sale contract to the buyer for signatures.

**23.7** After receipt of signed contract from MMTC through e-mail, the buyer will put their signatures of authorized official with seal and send the signed contract to MMTC within three working days. The buyer will also arrange to open the performance guarantee (PG) bond in the form of a bank guarantee (BG)/fund transfer, (as per format at Appendix-II), within ten calendar days of receipt of MMTC signed contract by e-mail and forward the same to MMTC immediately. The **PBG** bond will be for appropriate value. Since shipment is prompt, as such, the requisite PG bond has to be furnished before vessel nomination or 10 days whichever is earlier.

- 23.8 MMTC reserves the right to accept or reject any or all tenders or to re-tender at MMTC's sole discretion without assigning any reasons. Incomplete offer or offers received after the closing time and date shall not be accepted. The complete details of the tender enquiry are available at MMTC's website [www.mmtclimited.com](http://www.mmtclimited.com), <http://eprocure.gov.in> and <https://mmtc.abcprocure.com>.
- 23.9 MMTC reserves the right to ask bidders for furnishing additional documents or details other than those specified in the tender, if deemed necessary.
- 23.10 In case, the H1 bidder fails to submit PBG, then MMTC has the option to give offer to H2 bidder to match and confirm H1's price and if H2 bidder also fails to submit PBG or rejects the offer, then MMTC has the option to give offer to H3 bidder at H1 bidder's price. This option however shall be restricted only up to H3 bidder.

## 24. **ARBITRATION**

All disputes arising between the parties (Buyer and Seller) out of or in relation to the work order shall be settled amicably. If, however, the parties fail to resolve amicably, the same shall be referred to and settled through an arbitration proceeding of a single/sole arbitrator, to be nominated by CMD, MMTC. The arbitration proceeding shall be conducted in accordance with the arbitration and conciliation Act, 1996 of India. The reasoned award made in pursuance thereof shall be binding on the parties, the venue of arbitration shall be New Delhi. Only the courts at New Delhi shall have the jurisdiction over the disputes in relation to and arising out of the work order.

## 25. **INTEGRITY PACT**

Buyer shall be required to fill and sign Integrity Pact (IP) (Appendix – VI) and submit along with documents for technical bid. Bidder shall communicate with IEMs only in case of complaints relating to IP. Person signing IP Agreement should write his/her name and designation with official stamp. IP should have signatures and names of witnesses. Bids without IP shall be liable to be disqualified and price bid of such bidders may not be opened.

## 26. **FRAUD PREVENTION**

(1) Commitments of the Bidder(s) / Contractor(s) / Buyer(s) / Vendor(S):

The Bidder(s) / Contractor(s) / Buyer(s) / Vendor(S) shall be bound to take all measures necessary to prevent Fraud and Corruption while dealing with MMTC. They agree and undertake to observe the principles/ provisions as laid down in "Fraud Prevention Policy" of MMTC during the execution of contract and in any other transaction with MMTC.

(a) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not, directly or through any other person or firm, offer, promise or give or otherwise allow any of MMTC's employees any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

(b) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

(c) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not commit or allow any employees of MMTC to commit any offence under the relevant provisions of IPC/Prevention of Corruption Act; further the Bidder(s)/Contractor(s) Buyer(s)/Vendor(S) will not use improperly or allow any employee(s) of MMTC, for purposes of competition or personal gain, or pass onto others, any information or document provided by MMTC as per of the business relationship, including information contained or transmitted electronically.

(d) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not instigate third persons to commit offences/activities outlined in Fraud Prevention Policy or be an accessory to such offences.

(e) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) if in possession of any information regarding fraud/suspected fraud, hereby agree and undertake to inform MMTC of same without any delay.

(2) Disqualification from tender process and exclusion from future contracts: If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of this Clause , above or “Fraud Prevention Policy” of MMTC in any other form such as to put their reliability or credibility in question, MMTC other than taking recourse available under law, shall be entitled to disqualify the Bidder(s)/ Contractor(s) Buyer(s)/ Vendor(S) from undertaking any transaction with MMTC and/or declare the bidder(s)/contractor(s) ineligible to be awarded a contract either indefinitely or for a stated period of time.

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

27. **HOLIDAY LISTING POLICY**

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

**TECHNICAL BID COMPLIANCE FORM**

Sl.No	Document	Compliance (Y/N)	Deviations, if any	Remarks
1	Name, Address, Tel No, Fax No, E Mail Id etc of the Bidder			
2	Company's Profile			
3	Auditor's Certificate indicating annual turnover and past experience in Minerals Trade and Annual financial results for last three years			
4	A copy of credit rating report by D&B/S&P/MOODY/CRISIL/ ICRA/CARE			
5.	Bank reference report			
6	Bank Guarantee (EMD)			
7	Signed & Stamped Copy of Tender Documents given in (Section-I)of tender notice			

Authorized Signature with official seal

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

**PRICE BID**

1.	Name of the Bidder	
2.	Address of the Bidder	
3.	Commodity	: Bauxite (Metallurgical Grade)
4	Quantity (+/- 10% at buyer's option)	: 1,00,000 MT
5	Price in USD PDMT FOBST OKHA Port, India, basis 45% Al <sub>2</sub> O <sub>3</sub>	:
6.	Validity of Price	:

Authorized Signature with official seal

**Date:**

\_\_\_\_\_



## SECTION - II

Appendix-I

### PROFORMA FOR BANK GUARANTEE FOR EMD

(On a stamp paper of applicable amount to be executed by a Delhi / NCR Branch of a Scheduled Bank other than Gramin Bank, Cooperative Bank, Dhanlaxmi Bank and Nainital Bank)

Bank Guarantee No. \_\_\_\_\_

Date \_\_\_\_\_

REF No.

MMTC LIMITED,  
Core -1, Scope Complex,  
7, Institutional area,  
Lodhi Road,  
New Delhi-110 003.

Sir,

1. WHEREAS, MMTC LIMITED, Core 1, SCOPE Complex, 7, Institutional Area, Lodhi Road, NEW DELHI-110 003, India, (hereinafter referred to as MMTC) has invited bids vide Bauxite of Indian Origin Global E-Tender (hereinafter referred to as Invitation to Bids) for supply of 1,00,000 MT (+/- 10%) of Bauxite of Metallurgical grade.
2. WHEREAS, the said Invitation to Bid requires that any eligible bidder intending to make a bid in response thereto shall furnish an irrevocable bid guarantee amounting to US\$ 10,000 in favour of MMTC Limited, New Delhi in the form of a Bank Guarantee with validity **up to 28.02.2019**.
3. AND WHEREAS at the request of M/s. \_\_\_\_\_ (Name & address of the Bidder) we \_\_\_\_\_ (Name & address of the Bank) do hereby unconditionally and irrevocably guarantee and undertake payment to MMTC, New Delhi up to and not exceeding the sum of US\$ 10,000 with validity **upto 28.02.2019** and that the Bidder M/s. \_\_\_\_\_:-
  - a) shall keep their offer firm and valid for acceptance by MMTC as per tender against which offer is made.
  - b) Shall sign the sale contract forwarded by MMTC within three calendar days.
  - c) shall in the event of the offer being accepted by MMTC, bidder will establish a Performance Bank Guarantee (within 10 calendar days from the issuance of signed sale contract) in favour of MMTC in the form indicated in the said Invitation to e-Tender for 5% of the contracted quantity through a scheduled Commercial Bank (other than Gramin Bank, Co-Operative Bank, Dhanlaxmi Bank and Nainital Bank) at New Delhi, India.
  - d) shall in the event of the offer being accepted by MMTC, Bidder will establish an irrevocable at sight Letter of Credit in favour of MMTC (within 10 calendar days from the issuance of signed sale contract) in the form indicated in the said Invitation to e-Tender covering full value of the quantity of bauxite at the price and on the terms accepted by MMTC, within 10 (Ten) calendar days from the date of issuance of signed sale contract.
  - e) shall further arrange to lift the confirmed quantities as per the sale contract by the last date of shipment indicated in the sale contract.
  - f) Any other conditions as stipulated by MMTC from time to time.
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 Limited, 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 US\$ ..... This Bank further agrees that the decision of MMTC 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 thereto pending before any court or tribunal our liability under these presents being absolute and unequivocal.
6. The payment shall be made to MMTC, 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\$ 10,000 only.
8. Your demand in writing 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 guarantee will not be discharged due to change in the constitution of the Bank or the said M/s. \_\_\_\_\_ (Bidder).
10. The liability of this bank shall discharge upon receipt of US\$ 10,000 only by MMTC.

This Bank further undertakes that this Guarantee shall remain irrevocably valid and in force initially **upto 28.02.2019** 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.

11. This Guarantee is governed by the Laws of India and comes into force forthwith.
12. 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.
13. It is to certify that networth of ..... (BG issuing bank) as on 31.3.2018 is not less than INR 5000 million and Capital Adequacy Ratio of this bank is not less than 9%.
14. BG shall be issued through SFMS. Detail of MMTC's Banker :

Name	: MMTC Limited
Bank	:STATE BANK OF INDIA, BRANCH PRAGATI VIHAR, SCOPE COMPLEX, LODHI ROAD, NEW DELHI – 110 003
Swift Code No.	: SBININBBH42
A/C No.	: 52142903753
IFSC Code	: SBIN0020511
MICR	: 110004005

Signature : \_\_\_\_\_

Name and code : \_\_\_\_\_

Designation: \_\_\_\_\_

Seal of the Bank : \_\_\_\_\_

<b><u>BANK GUARANTEE - EMD</u></b>		
<b>With validity upto</b>	<b>:</b>	<b>28.02.2019</b>



**Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road New Delhi – 110 003, India**  
**Phone #:24381513 Fax #: 0091-011 24364106**

www.mmtclimited.com

Bauxite (Metallurgical Grade) **SALE CONTRACT NO.** \_\_\_\_\_ **DATED** \_\_\_\_\_

This Agreement is made on..... between MMTC LIMITED, a company incorporated in India under the Company's Act, 2013 having its Regional Office at MMTC Limited, 2, Nagindas Chambers, Ashram Road, Usmanpura, Ahmedabad - 380014, Gujarat, (India) (GSTN 24AAACM1433E1Z), hereinafter called the SELLER (which expression unless excluded by or repugnant to the context shall include its successors and assigns) of the one part with registered office at Core-I, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi and M/s ( Name and address of buyer) hereinafter called the BUYER (which expression, shall unless excluded by or repugnant to the context, shall include its successors and assigns) of the other part.

WHEREAS the Sellers have agreed to sell and the Buyers have agreed to buy the following quantity of Bauxite (Metallurgical Grade) on the terms and conditions hereinafter mentioned.

Now it is hereby mutually agreed and declared by and between the parties hereto as follows:

**ARTICLE 1: COMMODITY**

Name of the Commodity	Bauxite (Metallurgical Grade)
Country of Origin	India
Packing	Loose In Bulk

**ARTICLE 2 : QUANTITY**

**1,00,000 WMT (+/-10% at Buyer's option)**

**ARTICLE 3 : SPECIFICATIONS**

**Chemical Composition  
(On Dry Basis)**

Al <sub>2</sub> O <sub>3</sub>	45.00% Basis 43% min
SiO <sub>2</sub>	8.00% Basis 9% max
Fe <sub>2</sub> O <sub>3</sub>	18.00% Max.(indicative)
TiO <sub>2</sub>	4.00% Max. (indicative)
CaO	4.00% Max. (indicative)
LOI	30.00% Max. (indicative)
Monohydrate	4.00% Max.( indicative)
Free Moisture	8.00% Max (indicative)

Size: 0 to 100 mm	95.00% Min
Type	Trihydrate Bauxite

**ARTICLE 4: PRICE**

US\$ \_\_\_\_\_ (US Dollars \_\_\_\_\_ only) PDMT FOBST Okha Port, basis 45% Al<sub>2</sub>O<sub>3</sub> content, fraction pro rata

**ARTICLE 5: PRICE ADJUSTMENT**

In case there is any difference between the specifications as per Article 3 and analysis report as per Article 9 of this contract, price will be adjusted at the rate mentioned below and documents will not be treated as discrepant.

**(a) For Al<sub>2</sub>O<sub>3</sub> Content**

**Bonus/Penalty:**

Al<sub>2</sub>O<sub>3</sub>: The base price shall be increased by USD 1.00 PDMT for each 1% (fraction prorata) of Al<sub>2</sub>O<sub>3</sub> above 45% and the base price shall be decreased by USD 1.00 PDMT for each 1% (fraction pro-rata) of Al<sub>2</sub>O<sub>3</sub> below 45% up to 43%. Beyond 43% double penalty prorata basis.

**(b) For SiO<sub>2</sub> content:**

**Bonus/Penalty:**

SiO<sub>2</sub>: The base price shall be decreased by USD 1.00 PDMT for each 1% (fraction prorata) of SiO<sub>2</sub> above 8% and up to 9% and the base price shall be increased by USD 1.00 per PDMT for each 1% decrease ((fraction prorata) in SiO<sub>2</sub> below 8%. Beyond 9% double penalty prorata basis.

**(c) For Physical composition**

Penalty @ USD 0.20 PWMT shall be applicable for each 1% deviation in size guaranteed at clause 6 above.

**(d) No penalty is applicable for deviations in other elements like Tio<sub>2</sub>, Cao, LOI, Monohydrate, Free Moisture, etc.**

**ARTICLE 6: DESTINATION**

Name of destination port shall be indicated by buyer at the time of nomination of vessel.

**ARTICLE 7: DELIVERY PERIOD**

January/February' 19

**ARTICLE 8: PORT OF SHIPMENT**

OKHA PORT (INDIA)

**ARTICLE 9: SAMPLING & ANALYSIS**

- a) At the loading port the seller shall at its own expense, appoint Mitra SK Pvt.Ltd/SGS/Intertek/IGI/TCRC to determine the specification of ore content in each shipment, and shall provide a certificate showing details of the determination and also the percentage of free moisture loss at 105 degree centigrade.
- b) At the port of discharge Mitra SK/SGS/ Intertek/IGI/TCRC (or any other assayer mutually agreed by Buyer and the Seller) shall take sample from each shipment and divide into three parts, one for buyer, the second for seller and third for umpire analysis which shall be sealed and kept with discharge port assayer for chemical analysis.
- c) The buyer shall forward the certificate issued by discharge port assayer showing the percentage of free moisture loss at 105 degree centigrade and the relevant analysis within 60 (sixty) days

after the date of Bills of Lading to seller by airway mail. Discharge port analysis shall be final except as otherwise provided in paragraph d, e, f & h below.

- d) If the difference in percentage of  $\text{Al}_2\text{O}_3$  or  $\text{SiO}_2$  content between load port and discharge port analysis made under paragraph a and b above of this clause is up to 0.5%, load port result will be adopted for final settlement.
- e) If the difference in percentage of  $\text{Al}_2\text{O}_3$  or  $\text{SiO}_2$  content between load port and discharge port analysis made under paragraph a and b above of this clause is more than 0.5% but within one percent, seller and buyer shall take mean of the load port and discharge port result.
- f) In case draft survey weight at disport is up to 0.5% of loadport weight, the payment will be restricted to draft survey weight at disport.
- g) If the difference in percentage of  $\text{Al}_2\text{O}_3$  or  $\text{SiO}_2$  content between load port and discharge port analysis made under paragraph a and b above of this clause is more than 0.5% but within one percent, seller and buyer shall take mean of the load port and discharge port result.
- h) If the difference in percentage of  $\text{Al}_2\text{O}_3$  or  $\text{SiO}_2$  content between load port and discharge port analysis made under paragraph a and b above of this clause is less than 0.5%, loadport result will be basis for settlement.
- i) Should the difference between the load port and discharge port analysis for  $\text{Al}_2\text{O}_3$  or  $\text{SiO}_2$  exceeds 1.00% (One percent) and parties do not reach an agreement on definite results, samples taken and kept with the Assayer at the load port and discharge port will be forwarded to an Umpire agreed to who will mix both these samples in equal proportion and carry out Umpire Analysis in respect of  $\text{Al}_2\text{O}_3$  and  $\text{SiO}_2$  which will be binding on both the parties and which will serve as basis for final invoicing.
- j) If the difference between the size determined at load port and discharge port exceeds 0.50%, mean of load port and discharge port result shall be taken for final settlement. If difference is up to 0.50%, the load port result will be adopted for final settlement.
- k) The cost of weight, sampling and chemical analysis, moisture determination and analysis performed at the discharging port shall be for buyer's account. The cost of umpire analysis shall be for the account of the party whose own analysis differs farther from the umpire analysis and if the results of such umpire analysis is the mean of the analysis of buyer and the analysis of seller then such cost shall be equally borne by both parties.
- l) If no determination of analysis is exercised at the port of discharge, or if seller does not receive the discharge port certificate within 60 (sixty) days after B/L date, the load port certificate(s) shall be conclusive evidence as to analysis of the ore.
- m) Buyer if felt necessary, would depute their representative or nominate agency at their cost to witness operations at the loading port(s). Similar facility would be extended to MMTC at the discharge port(s).

#### **ARTICLE 10: WEIGHMENT**

At the loading port the seller at seller's expenses shall determine the weight of shipment of ore by draft survey. The weight of ore as ascertained and certified by SGS India Ltd / Mitra S K Pvt.Ltd/ Intertek/IGI/TCRC analysis certificate shall be basis of seller's invoice.

Buyer shall at its expense shall appoint Mitra SK/SGS/ Intertek/IGI/TCRC (or any other assayer mutually agreed by Buyer and Seller) for determination of weight at the discharge port.

The weight of each shipment at the discharge port shall be ascertained by draft survey. The weight thus determined by the assayer shall be final as to wet quantity in relevant shipments except if difference between load port and discharge port dry weight is more than 0.5%.

The dry quantity shall be determined by deducting the free moisture referred to in Article 9 for such wet quantity. MMTC may appoint their representative for inspection at the discharge port. If the difference of dry weight determined at the load port and at the discharge port is over 0.5%, then the mean of these two weights shall be final. If no draft survey is performed at the discharging ports, weight determined at load port will be regarded as final.

#### **ARTICLE 11: PERFORMANCE GUARANTEE**

The buyer shall furnish a performance guarantee for USD \_\_\_\_\_ in the form of a bank guarantee towards 5% of the sale value in favour of the seller through a scheduled commercial bank (other than Gramin Bank Co-operative Bank, Dhanlaxmi and Nainital Bank) in India within ten calendar days from the date of issuance of signed sale contract by MMTC. Performance guarantee shall remain valid for a minimum period of 120 days after latest date of delivery. The Seller will accept the nomination of the vessel only after receipt of performance guarantee and its confirmation by issuing bank. In case the buyer either fails to perform the contract satisfactorily or fails to establish a workable letter of credit within stipulated time, MMTC will have the right to invoke the bank guarantee. In addition, MMTC will have right to claim all losses, damages, expenses, etc. from buyers and any other appropriate action as deemed fit. The PG will be returned after satisfactory performance of contract by buyer.

#### **ARTICLE 12 SHIPMENT ADVICE**

Seller shall, after completion of loading at the loading port, send shipment advice to Buyer within 5 (five) working day after B/L date by e-mail indicating contract number, L/C number, name of commodity, approximate invoice value, wet weight, name of vessel, loading port and B/L no and date.

#### **ARTICLE 13: INSURANCE**

Insurance covering bauxite ore after it is loaded on board the vessel shall be arranged by the Buyer at its expenses. Seller shall advise Buyer within 5 (five) working days by fax/e-mail of the particulars as per Article 12 of this contract.

#### **ARTICLE 14: DELIVERY**

Shipment shall be deemed as delivered when it is loaded on board the vessel and trimmed.

#### **ARTICLE 15: TITLE AND RISKS**

Title with respect to each shipment shall pass to the Buyer when the Seller has negotiated the relative shipping documents against the L/C opened by the buyers and received the proceeds from the opening bank after completion of loading on board the vessel at the Indian port. Risk with respect to each shipment shall pass from the Sellers to the Buyer when the ore has been loaded on board the vessel.

#### **ARTICLE 16: SHIPMENT**

Buyer shall nominate a Vessel with fully classed Highest Lloyds or equivalent first class classification society, ISM/ITF approved, P&I Covered and the vessel shall not be older than 15 Year. Vessel shall be fitted with minimum 4 x 25t fully functional cranes + 4 x 10 or 12 CBM electro-hydraulic grabs.

For shipment, Buyer shall notify Seller of 1) Name of the Vessel, 2) Quantity of the Bauxite to be loaded 3) mode of loading and 4) estimated time of arrival (ETA) at loading port together with Lay days of 10 days. Buyer shall nominate a performing vessel to seller and the seller shall confirm acceptance of the vessel within 1 working day after receipt of Buyer's nomination.

The buyer shall arrange the vessel or their agent to notify seller or their agent three notices of the ETA of the vessel at the loading port. The first of such notice shall be given 7 (seven) days prior to the ETA of the vessel, the second to be given 48 (Forty eight) hours prior to the ETA and the third to be given 24 (Twenty Four) hours prior to the ETA.

**ARTICLE 17: LOADING TERMS AND CONDITIONS**

- a) Seller shall deliver the cargo to buyer in bulk, seaworthy trimmed, alongside Seller's wharf/anchorage vessel being always afloat to a maximum permissible draft, when fully loaded at the place of loading.
- b) Seller shall load ore aboard the vessel at the following rates per weather working day of twenty four (24) consecutive hours Saturdays, Sundays and Holidays included but statutory holidays excepted.

<u>Size of vessel</u>	<u>Loading Rate</u>	
	<u>Okha Port Berth/Anchorage</u>	
	By Vessel's Grabs	By Vessel's Grabs
Upto 50,000 DWT	8,000 WMT Basis 4 working cranes/ Grabs of 25 MT per grab.	
Over 50,000 DWT	10,000 WMT Basis 4 working cranes/ Grabs of 25 MT per grab.	

- c) The length of the berth at port okha is 190 mts and available draft at berth is 7.5 mts for calculation purpose and depending upon tide at the time of arrival of the vessel. On this berth buyer can bring in a supramax vessel where part loading of 25000 MT can be done on berth and balance quantity can be loaded at anchorage. If the buyer is planning to bring a panamax vessel then it has to be loaded 100% at anchorage.
- d) Sellers confirm loading will take place partly at berth and balance quantity at anchorage in Port Okha and have received confirmation from all appropriate authorities where the vessel nominated by charterers can be safely loaded at the anchorage.
- e) Lay time for loading shall commence 12 running hours after tendering of notice of readiness. In case loading commences earlier, actual time used to count. In case loading has to be interrupted due to reasons of responsibility of the vessel, such time lost shall not count as Lay time.
- f) Upon arrival of the vessel within the limits of the loading port and after
  - i. Ensuring that the hatches/holds of the vessel have been thoroughly cleaned,
  - ii. Obtaining free pratique and;
  - iii. Ensuring that the vessel is load-ready in all respects, the Master of the vessel shall serve the Notice of readiness of the vessel to load the Materials (i.e. Master's N/R) on the Ahmedabad/New Delhi offices of the SELLER at e-mail [ssmodh@mmtclimited.com](mailto:ssmodh@mmtclimited.com) / [imbaggga@mmtclimited.com](mailto:imbaggga@mmtclimited.com) during normal office hours which are 9.30 AM to 5.30 PM from Monday to Friday. The master's N/R shall not be served on Saturday/Sundays/Port holidays/ Charter Party holidays.

**DEMMURRAGE/DESPATCH**

<u>Size of vessel</u>	<u>Demurrage</u>	<u>Despatch</u> (in USD)
	As per charter party but Maximum <i>per 24 hours day(prorata or part)</i>	
Upto 50,000 DWT	USD 8,000 Max	USD 4,000 Max
Over 50,000 DWT	USD10,000 Max	USD 5,000 Max



- Despatch will be always half of the demurrage rate as per Charter Party.

Immediately after completion of loading of the materials into vessel and before the sailing of the vessel from the loading port(s) a statement of facts shall be made out at the loading port(s) duly signed by and distributed amongst; (a) Master of the vessel/Agent of the vessel at the loading port (b) Agents/Representative(s), if any of the BUYER at the loading port and (c) representative of the SELLER at the loading port.

The Master of the vessel shall deliver a stowage plan in triplicate duly signed by him before loading and immediately after completion of loading and sailing of the vessel, if sought by the SELLER.

Based on the Statement of Facts, the computation of lay time allowed and lay time used shall be based on provisions and its sub clauses herein above. Dispatch money, if any, calculated on the basis of "Working time Saved" shall be arranged to be remitted by the BUYER to the SELLER within thirty days from the date of receipt of the claim of the SELLER with lay time statements. And demurrage shall be remitted within thirty days from date of receipt of claim from buyer. Settlement of dispatch/ demurrage shall be effected upon mutual agreement between buyer and seller.

**OTHER TERMS AND CONDITIONS:** Counting of Lay time:

- 1) Time lost for all draft surveys on the account of the buyer.
- 2) Time for shifting of vessel from anchorage point to loading berth shall be to the account of the buyer.
- 3) BL quantity shall be the quantity loaded which shall be determined as per Article 10 of this contract. The release instructions for the bill of lading should be arranged by the buyers immediately after completion of loading.
- 4) If any damage is caused to the vessel at the loading port at the time of loading of the Materials by the Stevedores engaged by the SELLER, the claim, if any, for such damage shall be settled directly between the ship owners and stevedores. The Master of the vessel shall lodge such claim, if any, on the stevedores, promptly after the damage has been sustained and then confirm in writing duly supported by the Third Party damage reports, prior to the departure of the vessel from the loading port, failing which the claim shall stand barred and the stevedores shall stand absolved and relieved of all responsibility. Subject to compliance with the conditions enumerated in the clause.

**ARTICLE 18: MODE OF PAYMENT**

The buyer shall establish an irrevocable and without recourse to drawer workable letter of credit (acceptable to MMTC) payable at sight valid for 75 days after latest date of shipment in USD in favour of the sellers/beneficiaries (**MMTC Limited, 2, Nagindas Chambers, Usmanpura, Ashram Road, Ahmedabad-380 014, Gujarat, India**) for export from Okha Port to cover 100% value of the cargo with tolerance for quantity and value as per contract from any of the top 50 banks (ranked on 31.05.18) by bankersalmanac.com link <http://accuity.com/resources/bank-ratings/> including their branches located anywhere or M/s. ANZ, M/s. DBS, M/s. RBS, M/s. Bank of Thailand, M/s. Standard Chartered Bank, M/s. HSBC, M/s. BN Paribas, M/s. Nova Scotia or foreign branches of India Nationalized Banks. The said letter of credit shall be established within 10 calendar days from the date of issuance of signed sale contract by MMTC to the buyer. The LC shall be advised through State Bank Of India, International Banking Division, 58, Shrimali Society, Navrangpura, Ahmedabad – 380009 Gujarat (INDIA) SWIFT SBININ-BB219, Fax No. 91-079-26561178. The opening bank shall also add that the SWIFT is operating instrument and no further confirmation is required. The L/C shall allow negotiation of documents for 100% shipment value within 21 days after Bill of Lading date at the counter of beneficiary bank. Notice of readiness (NOR) shall be accepted only on receipt of workable L/C through SBI Ahmedabad and completion of pre-shipment formalities with customs/port authorities. The buyer shall nominate suitable vessel in such a manner so that seller shall get at least three working days prior to arrival of vessel at loading port for processing of pre shipment documents by the appropriate authority and payment of

export duty and other statutory charges. L/C shall provide for T.T. reimbursement within two working days upon receipt of claim from the negotiating bank. All bank charges outside India shall be to the buyers account. L/C shall also provide for negotiations and acceptance of documents even with spelling, grammatical and other technical mistakes etc. for payment. LC instrument is subject to UCPDC600. Third party LC is not acceptable.

In case L/C is got established from a bank other than those listed above, MMTC shall have the option to get the L/C confirmed and all such L/C confirmation charges shall be payable by the buyer to MMTC before filing of shipping bill.

The seller shall claim the payment in two part A) Provisional Payment, B) Final Payment:

**C) PROVISIONAL PAYMENT**

The said LC shall be payable by telegraphic transfer reimbursement by opening bank within three working days against seller's sight draft for the amount of **98% (ninety eight percent)** of the value of this shipment. The weight certificate issued by Mitra S K Pvt.Ltd / SGS/IGI/TCRC/Intertek India Pvt Ltd by survey of ship's draft together with the certificate of analysis of sample and of the percentage of the free moisture loss at 105 degrees centigrade issued by the assayer shall be basis for seller's provisional invoice.

**D) FINAL PAYMENT**

The balance due to the seller after provisional payment shall be made through the Letter of Credit against seller's final invoice in one original and four duplicates delivered through the Bank. This invoice is to be based on Mitra SK Pvt.Ltd / SGS/IGI/TCRC/Intertek India Pvt Ltd or any other mutually agreed assayer certificate as provided in Article 9 and Article 10 of contract issued within 60 days after Bill of Lading date. If umpire analysis is required, payment adjustment arising for this will be made when the umpire's certificate is available. In case analysis is not received by seller within 60 days after Bill of Lading date, the load port result shall form the basis for final invoice. Seller's certificate regarding non-receipt of discharge port certificate within 60 days after Bill of Lading date would be final.

**ARTICLE 19: DOCUMENTS**

**A. DOCUMENTS FOR PROVISIONAL PAYMENT:**

Seller shall provide buyer through negotiating and opening banks for reimbursement of sale proceeds with the following documents for the provisional amount of 98% of sale value.

- 1) Seller signed provisional commercial invoice in three originals and three copies for 98% value indicating value of commodity shipped, name of carrying vessel, contract number, L/C number and B/L Number.
- 2) Full set of "Shipped Clean on board" ocean B/L in three originals and three Non-negotiable copies made out to "Order", Blank endorsed marked "Freight Payable as per Charter party" notifying the party stipulated in the L/C. Quantity shown in Wet Metric Tons/WMT acceptable.
- 3) Certificate of Weight in one original and four copies issued by SGS India / Messrs Mitra SK Pvt Ltd. at the loading port certifying the actual surveyed weight of cargo shipped.
- 4) Certificate of Quality in one original and four copies issued by SGS India / Messrs Mitra SK Pvt Ltd. at the loading Port showing the actual result of the test of chemical composition and all other tests called.
- 5) Certificate of Origin in one original and four copies issued by any chamber of commerce and industry in India.
- 6) Beneficiary's certified copy of shipment advice by fax/e-mail dispatched to Buyer within five (5) working day after the B/L date at the loading port advising L/C number, goods name, quantity, vessel name, shipment date, approximate invoice value, B/L Number and ETA of the vessel at discharging port.
- 7) Beneficiary's certificate certifying that they had sent to Buyers by fax/ e-mail one set of non negotiable documents, Including Bill of Lading, Provisional Commercial Invoice, Certificate of

Quality, Certificate of Weight, Certificate of Origin and Shipment advice by fax within five (5) working days after the date B/L.

**B. DOCUMENTS FOR FINAL PAYMENT:**

Seller shall provide buyer through negotiating bank to opening bank for reimbursement of final payment with the following documents.

- i) Seller's final invoice in one original and four copies indicating value of commodity shipped, name of carrying vessel, the contract number and B/L Number less provisional payment.
- ii) Certificate of Quality in one copy issued by Mitra SK/SGS or other mutually agreed assayer at discharging port, Scanned copy/photocopy is allowed.
- iii) Certificate of Weight in one copy issued by Mitra SK/SGS or other mutually agreed assayer at discharging port, Scanned copy/photocopy is allowed.
- iv) In case of the agreed assayer's certificate of weight and / or quality is not received by the seller within 60 days after BL date, then the seller has right to submit the final invoice based on load port Certificate of Quality and/or Certificate of Weight issued by the assayer. In such case a declaration by the seller of non-receipt of SGS/Mitra or other mutually agreed assayer SK certificate and the photocopy of load port weight and quality results to accompany documents instead of documents at (ii) and (iii) above. In case, it is decided to go for umpire analysis, copy of umpire analysis shall be attached in place of s.no. ii) above.

**ARTICLE 20: NON-DELIVERY**

Notwithstanding Article 7 herein above in the event of failure to effect or to take delivery as provided in this contract due to cause(s) for which the Seller or the Buyer is responsible, the other party shall have an option either to cancel the contract in respect of the undelivered quantity or accept or supply it in the manner to be mutually agreed upon. However, since the contract is on back to back basis, seller will not be liable for any claim for non-delivery.

**ARTICLE 21: DEFAULT**

In case of non-lifting of cargo within the delivery period, the seller shall have the right to invoke the bank guarantee submitted towards performance guarantee. In addition, MMTC will have right to claim all losses, damages, expenses, etc. from buyers and any other appropriate action as deemed fit.

**ARTICLE 22: FORCE MAJEURE**

Either party shall be relieved of its obligations and responsibilities under this contract if the performance of this contract is wholly or partially prevented and/or delayed by act of God and any other cause or causes beyond the control of either party such as fires, floods, strikes, lockouts, riots or civil commotion, epidemics, war and acts of Government. etc. Either party shall promptly i.e. within 15 days give notice to the other party of any force majeure given even effecting its obligations under this contract supported by documentary evidence such as certificate of Chamber of Commerce or of any other competent authority connected with the cause. If such notice is given, the obligations and responsibilities of the party giving such notice as well as the corresponding obligations and responsibilities of the other party shall be relieved to the extent made necessary by and continuance of force majeure. If such condition continues for more than 90 days, this agreement shall be deemed to be inoperative and parties shall be relieved from the respective obligations.

**ARTICLE 23: ARBITRATION**

Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity 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 governing law shall be Indian Law and the venue of Arbitration shall be New Delhi.

**ARTICLE 24: VALIDATION**

The contract shall become valid as and when signed by duly authorized representatives of both the Sellers and the Buyers.

**ARTICLE 25: SPECIAL CLAUSE**

It is expressly understood and agreed by and between the Buyer and the Seller that MMTC 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 Government of India is not a party to this agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that MMTC is an independent legal entity with power and authority to enter into contract solely on its own behalf under the applicable laws of India and general principles of contract law. The Buyers expressly agreed, acknowledges and understands that MMTC is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly Buyer, hereby expressly waives, releases and foregoes any and all actions or claims including cross claims, implored claims or counter claims against the Government of India arising out of this contract and covenant not to sue the Government of India as to any manner, claim, cause of action or thing whatsoever arising out of or under this agreement.

**ARTICLE 26: LOSS OF CARGO**

In the event of total / or partial loss of cargo, the analysis and the weight as determined at the loading port shall be treated as final and shall be used for final invoicing and payment.

**ARTICLE 27 ; FRAUD PREVENTION**

(1) Commitments of the Bidder(s) / Contractor(s) / Buyer(s) / Vendor(S):

The Bidder(s) / Contractor(s) / Buyer(s) / Vendor(S) shall be bound to take all measures necessary to prevent Fraud and Corruption while dealing with MMTC. They agree and undertake to observe the principles/ provisions as laid down in “Fraud Prevention Policy” of MMTC during the execution of contract and in any other transaction with MMTC.

(a) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not, directly or through any other person or firm, offer, promise or give or otherwise allow any of MMTC’s employees any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

(b) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

(c) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not commit or allow any employees of MMTC to commit any offence under the relevant provisions of IPC/Prevention of Corruption Act; further the Bidder(s)/Contractor(s) Buyer(s)/Vendor(S) will not use improperly or allow any employee(s) of MMTC, for purposes of competition or personal gain, or pass onto others , any information or document provided by MMTC as per of the business relationship, including information contained or transmitted electronically.

(d) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) shall not instigate third persons to commit offences/activities outlined in Fraud Prevention Policy or be an accessory to such offences.

(e) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(S) if in possession of any information regarding fraud/suspected fraud, hereby agree and undertake to inform MMTC of same without any delay.

(2) Disqualification from tender process and exclusion from future contracts: If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of this Clause , above or “Fraud Prevention Policy” of MMTC in any other form such as to put their reliability or credibility in question, MMTC other than taking recourse available under law, shall be entitled to disqualify the Bidder(s)/ Contractor(s) Buyer(s)/ Vendor(S) from undertaking any transaction with MMTC and/or declare the bidder(s)/contractor(s) ineligible to be awarded a contract either indefinitely or for a stated period of time.

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

28. HOLIDAY LISTING POLICY

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

**ARTICLE 29: OTHERS**

Any change or modification in the terms and conditions of this contract shall become effective only when confirmed by both the Seller and the Buyer in writing.

In witness whereof this contract is made in duplicate, the Seller and the Buyer having signed them on this \_\_\_\_\_ **2019** are retaining one (1) copy each.

BUYER  
FOR AND ON BEHALF OF

SELLER  
FOR AND ON BEHALF OF

PERFORMANCE BANK GUARANTEE PROFORMA

Bank Guarantee No. \_\_\_\_\_ dated \_\_\_\_\_

(On a stamp paper of applicable amount to be executed by a Delhi / NCR Branch of a Scheduled Bank other than Gramin Bank, Cooperative Bank, Dhanlakshi Bank & Nainital Bank)

To

M/s MMTC Limited  
Core 1, SCOPE Complex  
7 Institutional Area  
Lodi Road  
New Delhi 110003 (INDIA)

Dear Sirs,

- 1) WHEREAS, MMTC Limited, having its registered office at Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road, New Delhi -110 003 India and one of its office at \_\_\_\_\_ (hereinafter called "the MMTC) have entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter called 'the CONTRACT') for \_\_\_\_\_ with M/s. \_\_\_\_\_ (name) address \_\_\_\_\_, (hereinafter called the 'XX')
- 2) AND WHEREAS the 'XX' 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 Dollars \_\_\_\_\_ with validity upto \_\_\_\_\_ 2019 and claim period upto \_\_\_\_\_ 2019.
- 3) AND WHEREAS at the request of the 'XX', we \_\_\_\_\_ Bank, \_\_\_\_\_ (address), hereby irrevocably and unconditionally guarantee and undertake to payment to the MMTC, immediately on demand up to and not exceeding the sum of US Dollars \_\_\_\_\_ payable by the 'XX' in the event of failing to perform any or all their obligations under the CONTRACT. The decision of the MMTC that the 'XX' 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 the MMTC not exceeding the sum of US Dollars \_\_\_\_\_ only without any demur, delay, protest and without any reference or recourse to the 'XX' notwithstanding any dispute raised by 'XX' 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 Performance Bank Guarantee.
- 5) NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to 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 thereunder 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 may be presented to the Bank by Registered Post or in person and the same shall be binding on us.
- 8) This guarantee comes into force forthwith validity upto \_\_\_\_\_ 2019 and claim period upto \_\_\_\_\_ 2019.
- 9) We further agree that MMTC shall have the fullest liberty without our consent and without effecting in any manner, our obligations hereunder to vary any of the terms and conditions of the delivery or extend time of performance by the said "XX" 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 "XX" 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 variation or extension being granted to the said M/s 'XX'.
- 10) The liability of the Bank under this Guarantee shall be discharged on receipt of US Dollars \_\_\_\_\_ only by MMTC with validity upto \_\_\_\_\_ 2019 and claim period upto \_\_\_\_\_ 2019. (Claim period one month after of validity date).

- 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 will not be discharged due to change in the constitution of the Bank or the said 'XX'.
- 13) We have the power to issue this Guarantee in your favour under the Charter of our Bank and the undersigned have full power to execute this Guarantee under the Power of Attorney granted to us by the Bank.
- 14) It is to certify that networth of ..... (BG issuing bank) as on 31.3.2018 is not less than INR 5000 million and Capital Adequacy Ratio of this bank is not less than 9%.
- 15) BG shall be issued through SFMS. Detail of MMTC's Banker :

Name : MMTC Limited  
 Bank :STATE BANK OF INDIA, BRANCH PRAGATI VIHAR, SCOPE  
 COMPLEX, LODHI ROAD, NEW DELHI – 110 003  
 Swift Code No. : SBININBBH42  
 A/C No. : 52142903753  
 IFSC Code : SBIN0020511  
 MICR : 110004005

SIGNED AND DELIVERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

Yours faithfully  
 For and on behalf of Bank  
 (Address)  
 (Banker's Seal)

With validity upto	:	31.04.19
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## INTEGRITY PACT

Between

MMTC Limited hereinafter, referred to as “MMTC”,

And

M/S \_\_\_\_\_ hereinafter referred to as “The  
Vendor”

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

WHEREAS, MMTC values full compliance with all relevant laws of the land, rules, regulations and the principles of economic use of resources and of fairness / transparency in its relation with its Buyer/Vendor/Bidder. IN PURSUANCE, thereto, the following clauses of the Integrity Pact will be applicable and this document shall deem to be an integral part of the Agreement/ Contract NO.

MMTC/2018-19/CE (S) \_\_\_\_\_ Dated \_\_\_\_\_ 2019 entered between us.

In order to achieve the goals, MMTC has appointed Shri D R S Chaudhary, IAS (Retd.) as Independent External Monitors (IEMs). Their contact details are as follows:

MMTC Limited,  
Core-1, SCOPE Complex,  
7, Institutional Area, Lodhi Road,  
NEW DELHI – 110 003.  
Email id : [dilip.chaudhary@icloud.com](mailto:dilip.chaudhary@icloud.com)

IEM will monitor the tender/auction/e-auction/e-sale/sale/purchase process and the execution of the contract for compliance with the principles mentioned above.

### Section 1 – Commitments of MMTC

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



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

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

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

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

- a) If the Buyer(s)/Vendor(s)/Bidder(s) has committed a serious transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility as buyer/vendor/bidder into question, MMTC is entitled to also exclude the Buyer(s)/Vendor(s)/Bidder(s) from the future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgression, the position of the transgressors within the company, hierarchy of the buyer and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.

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

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

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

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

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

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

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

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

If MMTC obtains knowledge of conduct of Buyer(s)/Vendor(s)/Bidder(s) or of an employee or a representative or an associate of Buyer(s)/Vendor(s)/Bidder(s), which constitutes corruption, or if MMTC has substantive suspicion in this regard, MMTC will inform the same to its Chief Vigilance Officer and/or appropriate Govt. authorities 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 representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, MMTC.
3. The IEM has the right to access without restriction to all trade/project related documentation of MMTC. The Buyer(s)/Vendor(s)/Bidder(s) will also grant the IEM, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his trade/project documentation. The IEM is under contractual obligation to treat the information and documents of the Buyer(s)/Vendor(s)/Bidder(s) with confidentiality.
4. MMTC will provide the IEM sufficient information about all meetings among the parties related to the project/contract provided as meetings could have an impact on the contractual relations between MMTC and the vendor. The parties offer to the IEM the option to participate in such meetings.
5. As soon as the IEM notices, or believes to notice, a violation of this agreement, he will so inform the Management of MMTC and request the Management to discontinue or take corrective action, or to take other relevant action. The IEM can in this regard submit NON-BINDING RECOMMENDATIONS. Beyond this, the IEM has not right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
6. The IEM will submit a written report to the CMD, MMTC within 4 to 6 weeks from the date of reference or intimation to him by MMTC and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the IEM has reported to the CMD, MMTC, a substantiated 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 a 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.

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(For & on behalf of MMTC)  
(Office Seal)

(For & on behalf of Buyer/Vendor/Bidder)  
(Office Seal)

Place : .....

Date : .....

Witness 1 : .....

Name :

Address :

Witness 2 : .....

Name :

Address :

