



EXPRESSION OF INTEREST FOR EMPANELMENT OF BUYERS OF ROUGH DIAMONDS



MMTC LIMITED

(Government of India Enterprise)

**Core –I, Scope Complex, Lodhi Road , 7 Institutional Area, New
Delhi**

No. MMTC/DG&JD/745/III

Dated: 28.05.2018

INVITING APPLICATION FOR EMPANELMENT OF BUYERS OF ROUGH DIAMONDS

We are inviting application for Empanelment of Buyers of Rough Diamonds. The company must be manufacturer of studded jewellery with retail setup involving manufacturing and retailing activities of minimum 10 years.

The company having its own facility for cutting and polishing diamonds or having tie-up will be preferred.

MMTC will restrict its purchase of Rough Diamonds only from the list of Companies approved vide RBI/2007-2008/24 Master Circular No. /08/2007-08 dated 2nd July 2007. Empanelling would be done at sole discretion of MMTC after verification of credentials. The detailed terms and condition for empanelment of Buyers is attached at Annexure –A to Annexure F.

Application should be submitted in sealed envelope and sent to The Additional General Manager (PMD), Core –I, Scope Complex, Lodhi Road, 7 Institutional Area, New Delhi -110003, mentioning clearly on the envelope "Application for empanelment of Buyers for Rough Diamonds".

Empanelment of buyers for rough diamonds is open round the year till 31.03.2019.

General Terms and conditions for empanelment

1. MMTC invites Expression of Interest application for empanelment of prospective bidders for purchase of rough diamonds through participation in tenders/auction/spot sales by MMTC's suppliers.
2. MMTC will restrict its purchase of Rough Diamonds only from the list of Companies approved vide RBI/2007-2008/24 Master Circular No./08/2007-08 dated 2nd July 2007.
3. The applicant would be required to submit KYC document to MMTC as detailed at **Annexure-D**.
4. Studded jewellery manufacturers in middle and lower segment are eligible for empanelment.
5. The applicants have to submit KYC documents along with a registration fee of Rs.5000/- (Indian Rupees Five thousand only) to MMTC as per details given below:

STATE BANK OF INDIA
CAG BRANCH, NEW DELHI – 1
A/C NO. 10813608375
IFSC: SBIN0009996

Upon fulfillment of KYC requirements and payment of registration fee of Rs 5000 (Indian Rupees Five thousand only), applicants will be empanelled for participating in Auction/Tender/Spot Sales as and when referred by MMTC. Under no circumstances registration fee shall be refunded to the applicant. Registration shall be valid for one year from the date of registration.

6. The applicant may submit the EOI (**Annexure A**) complete in all respects in the EOI submission box or through Courier or Post to Sh. Mukesh Shah, Additional General Manager (PMD), MMTC Limited, Core-1, SCOPE Complex, Lodhi Road, 7 Institutional Area, New Delhi – 110003.
7. For any queries, the applicant may send an email to akapoor@mmtclimited.com, mukeshshah@mmtclimited.com, pallavi@mmtclimited.com.
8. Prospective bidder (s) may down-load the Expression of Interest document from the website of MMTC www.mmtclimited.com or NIC portal <http://eprocure.gov.in>. Formal application in the prescribed format, along with registration fees and full EOI document duly signed by the applicant should be submitted.
9. Duly authorized representative of the Company must sign the documents.
10. Applicant should submit their supporting documents such as Company Brochure, last three years Balance Sheet, registration certificates with various tax authorities- GSTN number or Government Departments, and Bankers reference letter to MMTC.
11. MMTC reserves the right to accept or reject any application without assigning any reasons whatsoever.
12. Applicant may clearly note that terms and conditions enumerated in this EOI are only illustrative and not exhaustive.
13. Applicant can also be asked to furnish additional information.
14. The applicant shall ensure compliance of all Government regulations/ conventions/policies/ guidelines/ orders, in force in India.
15. Under no circumstances registration fee shall be refunded to the applicant.
16. MMTC at its absolute discretion may choose to abandon the EOI either in part or in whole without giving prior notice to the prospective bidder.

17. MMTC reserves the right to accept or reject any proposal, and to annul the registration process and reject proposals at any time prior to empanelment, without thereby incurring any liability to the affected applicant or any obligation to inform the affected applicant of the grounds for action taken by MMTC.
18. MMTC makes no commitments, express or implied that this process will result in a business transaction with anyone.
19. MMTC is not bound contractually or in any way to any of the applicant to this EOI. MMTC is not liable for any costs or compensation in relation to the consideration of this EOI incurred by the bidders.

Request for Empanelment for Purchase of Rough Diamonds

(To be submitted on the Letter head of the Bidder

We are willing to participate in tenders/auction/spot sales organised by MMTC's diamond suppliers and want to buy rough diamonds through participation in tenders/auction/spot sales by MMTC nominated suppliers. We hereby confirm that we are fully aware of the terms and condition of Diamond Auction. We are also aware that registration is subject to KYC Norms/Terms and Condition of MMTC and annual registration fees of Rs. 5000 (Indian Rupees Five Thousand only).

Validity of Registration: FY 2018-19 (Upto 31st March, 2019)

The details of our firm are given below:

S.No Item/ description Details to be filled by Bidder alongwith Attachments, if any

1 Name of Firm

2 Trader /Manufacturer/Jeweller/ Jewellery Exporter

3 Partnership/Company/Proprietary

(Copy of partnership deed/MOA and Balance sheet for last three financial year to be enclosed)

4. Address

5. Landline Number (With STD code)

6. Mobile Number

7. E-mail

8. Fax Number

9. PAN No. : (Copy to be enclosed)

10. GST No. : (Copy to be enclosed)

11. Name of Directors/Partners//Proprietor

(i) Two (2) Colour photographs

(ii) Identity proof.

12. Name of Authorised Partners/ /Director / Proprietor to sign the document for gold transactions.

Authorization certificate signed by Directors/Partner/proprietor & A set of their specimen signature duly attested by their bankers to be submitted

13 Bank Details (Duly filled-in details as per Annexure – B may please be furnished)

14 Details of Payment of registration amount of Rs 5000.

Pls provide **UTR Number of NEFT/RTGS SETTLED TRANSACTION.** Name of the party to be exhibited by sending bank branch of the party to MMTC for ensuring credit identification.

15 Declaration certificate regarding Conflict of Interest /Blacklisting
(Copy to be enclosed as per Annexure - C)

The document attached herewith has been self-attested.
(ON LETTER HEAD)

Kindly enroll our firm to enable us to participate in tenders/auction/spot sales for rough diamonds. We are fully aware of all the terms and conditions for auction of rough diamond.

Declaration

We, the Directors/Partners/Proprietor(s) of M/s _____ hereby solemnly declare that all information furnished in this application is true and complete to the best of our knowledge and belief. M/s MMTC Limited is hereby indemnified from any legal and/or financial liability in the event that any information given here is found inaccurate or incomplete or misleading.

For M/s _____
(Signature with full name & designation)
Directors/Partners/Proprietor(s)
Stamp of the party

(To be submitted on the Letter head of the Bidder)

Banking account detail form

**Application for participation in tenders/auction/spot sales for purchase of rough diamonds -
Banking account Detail**

Vendor Code (to be filled by MMTC) _____

The banking / Account Details are as furnished below: -

We request you to give our payments by crediting our account directly by E-Payment mode as per account details given below. We hereby undertake to intimate MMTC in case of any change in particulars given below and will not hold responsible the company for any delay/default due to any technical reasons beyond company's control.

1. Bank Account No. _____
2. RTGS/NEFT IFSC Code _____
3. Bank Name _____
4. Bank Branch Name _____

5. Branch Code _____
6. Account Type _____ (Saving/Current)
7. E-mail ID (If any) of Vendor _____

A blank cancelled cheque has been enclosed herewith

Thanking You,

Certified by Bank regarding Banking details

(Vendor's Signature & Seal)

(Bank Seal & Signature of Bank official)

Conflict of interest/Blacklisting declaration form

(To be submitted on the Letter head of the Bidder)

[Date]

To,

The General Manager,
MMTC Limited
Core-1, Scope Complex, 7 Institutional Area, Lodi Road,
New Delhi-110003

Dear Sir,

Sub: Application for participation in tenders/auction/spot sales for purchase of rough diamonds
– Conflict of Interest

Declaration

We, the undersigned, hereby declare that

1. <Applicant name>, none of our sister concerns/associates belonging to our group is participating/submitting the EOI.

2. <Applicant name>, is not under a declaration of blacklisted for corrupt or breach of ethical conduct or fraudulent practices by any state or central government/ any other Government institutions in India for any reason as on tender closing date.

3. <Applicant name>, has no conflict of interest and there exist no potential Conflict Interest which can lead to breach of trust.

4. <Applicant name>, certifies that in the event of award of contract, that services will be carried out in an independent way with utmost care and regard to business ethics and without influence of any factors attributable or identifiable as conflict of interest.

Thanking you,

Date:

(Signature)(In the capacity of)

(Name)

Duly authorized to sign the Tender Response for and on behalf of:

(Name and Address

of Company)

Seal/Stamp of

bidder

Checklist of the documents for application

Documents required to be submitted along with request application for participation in tenders/auction/spot sales for purchase of rough diamonds .

1. Request for enrolment for purchase of rough diamonds through participation in tenders/auction/spot sales as per Annexure – A.
2. Board resolution / letter from the partners authorising all or any one of the Directors / Partners to sign the documents as per Annexure –A/S.No 12
3. Authorised signatures duly attested by the bank as per Annexure –A/S.No 13
4. Copy of PAN / latest income tax assessment /income tax returns as per Annexure –A/S.No 9
5. Copy of GST Certificate as per Annexure –A/S.No 10
6. Copy of Memorandum of Articles & Association / Partnership Deed as per Annexure –A/S.No 3
7. Bank Account Detail as per annexure- B
8. Copy of the Audited Balance Sheet for the last three financial year as per Annexure –A/S.No 3
9. Declarations (Conflict of Interest and Blacklisting) as per annexure- C
10. Colour Photographs of the Directors/ Partners/Proprietor as per Annexure –A/S.No 11
11. Copy of the Passport/Aadhaar Card of Directors/Partners/Proprietor as per Annexure-A/S.No 11.
12. Integrity Pact Agreement – Annexure G

TERMS & CONDITIONS

CATEGORY :STUDED JEWELLERY MANUFACATURERS IN MIDDLE AND LOWER MIDDLE SEGMENT

1. The company must be a manufacturer of studded jewellery with retail set up involved in manufacturing and retailing activity for minimum 10 years.
2. Manufacturers with its own facility for cutting and polishing diamonds of different origin or having tie up will be preferred.
3. This empanment will be for import of diamonds from Russia or any other reputed rough diamond supplier of MMTC Ltd.
4. The company should have minimum net worth of Rs. 15 crore and should be a profit making company.
5. The company should be financial sound having minimum turnover of Rs. 50 crore per annum for last three consecutive years as per the certified Annual Report.
6. The company would submit a confidential satisfactory Banker's report of financial soundness along with the bank confirmation for undertaking transactions and for arranging for prompt payment of at least US\$ 0.75 million. In addition an EMD of Rs. 2.5 lakh would be deposited with MMTC prior to visit which would be returned without interest, if there are no corresponding obligations.
7. The applicant should also submit certificate that they have not defaulted in any deal and the rough diamond shall be purely used for their retail activity (end user).

OTHER TERMS

1. As there is a limitation on the number of persons who can sight the material at one time, the delegates would be restricted to 4 persons per visit. Selection of participants will be on the basis of technical and commercial competence of the parties and the decision of Selection Committee set up by MMTC will be final. Every empanelled buyer would be given a chance to participate by rotation and in the first instance be in alphabetical order.
2. The bidding would be done jointly and the prices to be offered would be decided unanimously by all the delegates however, in case of difference, the higher bid would be offered on the undertaking that the entire material at the higher price would be lifted by the highest bidder and not be shared amongst all bidders. The person traveling should be fully empowered by their Company to finalize and accept the price. All costs incidental to the transaction including traveling, lodging, boarding, bank charges, freight and insurance, MMTC margin, duties, licence fees, sales tax, octroi etc., shall be borne by the companies for their delegates/purchases themselves.

3. Since import of Precious stones from certain sources requires advance payment before export from seller's country, the empanelled applicant would be required to deposit the full value of their purchase with MMTC in advance in India and thereafter MMTC would remit the payment to the foreign suppliers.
4. Each company will be allowed 3 chances for bidding successfully. In case of 3 successive failures, the company would be replaced by other applications in the order of registration strictly. Applicants may kindly note that MMTC reserves the right to review their performance in terms of participation in preview/sightings over two-three sightings before deciding on future previews.
5. Purity, quality and weight of rough diamonds as certified by the supplier shall be final and MMTC shall not be responsible for any dispute arising out of caratage and weight.
6. It is the sole discretion of MMTC to select or reject the bid without assigning any reason thereof. MMTC reserves right for refusal at any moment of tender/auction/spot sales process, without assigning any reason to the bidder.
7. Final selection of successful bidder(s) from among the empanelled participants will be done at the discretion of MMTC and decision of MMTC shall be final and binding on all the empanelled successful bidder(s).
8. Participation and bidding in the tender/auction/ spot sales shall be treated as conclusive evidence of the fact that the bidder is satisfied in all respects regarding quantity, quality, condition of the Auction property, taxes and duties, and other extraneous factors and the Principle of Caveat Emptor (let the successful bidder(s) beware) will apply. It shall also imply that the bidder has carefully gone through and understood the terms and conditions of Auction including the amendments if any, prevailing at the time of Auction. Seller and Service Provider will not entertain warranty or guarantee of the quality, quantity, measurement, condition and about any complaints or objections once Bid is placed.
9. The highest bidder does not get any right to demand acceptance of his offer. SELLER reserves the right to accept/ reject/ cancel any bid, withdraw any portion of the rough diamonds (Auction Property) at any stage from tender/auction/spot sales even after acceptance of bid/issue of delivery order or release order/ deposit of full value by successful bidder without assigning any reason thereof. In the event of such rejection/ cancellation/withdrawal, SELLER shall refund the value of Auction Property, if paid for, to the successful bidder. SELLER shall not be responsible for any damages/loss whatsoever to the successful bidder on account of such withdrawal.
10. The insurance and logistics after taking delivery is to be arranged by the Successful bidder(s) at his own cost.
11. The bidder shall sign a separate Integrity Pact Agreement with MMTC. IP Agreement shall be submitted alongwith the KYC Documents to MMTC.
12. MMTC reserves the right to accept or reject any bid without any explanation.

Annexure F

Agreement (on Rs. 100 non-judicial stamp paper)

This Agreement made on this day _____ of _____ 2018 at (Venue) _____ between MMTC Limited, a company incorporated under the Companies Act 1956 and having its registered office at Scope Complex, Core 1, 7 Institutional Area, New Delhi (hereinafter called MMTC Ltd., which expression shall unless repugnant to the context would mean and include its successors and assigns) of the one part

And

M/S _____, having its registered office at _____ (hereinafter called the Associate, which expression shall unless repugnant to the context would mean and include its successors and assigns) of the second part.

Whereas, MMTC is making arrangements to source rough diamonds directly from Russia and other countries for supply to the Indian Diamond Industry. MMTC will restrict its purchase of Rough Diamonds only from the list of Companies approved vide RBI/2007-2008/24 Master Circular No. /08/2007-08 dated 2nd July 2007.

And whereas the Associate has expressed willingness to join with MMTC for import of rough diamonds from its sources as above and wishes to purchase the rough diamonds sourced by MMTC on their behalf.

It is hereby mutually agreed by and between the parties hereto as follows:-

TENDER PARTICIPATION:

1. Associate will participate in the tenders as intimated by MMTC and submit bids in the name of MMTC. MMTC undertakes to submit bids to its suppliers of rough diamonds, only on the basis of specific authorization/requests of Associate. The travel expense and TA/DA of MMTC official(s) would be borne by the Associate. MMTC will inform the name of the authorized official(s) nominated by CMD. MMTC for visiting the suppliers country alongwith the representative of Associate for participation in the preview. The tentative tour programme of MMTC representative will also be submitted to the Associate.
2. An EMD of Rs. 2.5 lacs would be deposited with MMTC prior to visit which would be returned without interest, if there are no corresponding obligations.
3. After the tender results/ allocations are declared and in event of MMTC's bid declared successful, Associate shall furnish 100% bid value. The contract shall be signed with the supplier only after receipt of 100% payment from the Associate.

4. MMTC will arrange to make advance payment to the supplier for the entire value of the contract after receipt of full payment from the Associate.
5. The bidder shall sign a separate Integrity Pact Agreement with MMTC prior to participation in auction/spot sales/tender of rough diamonds, in case the value of the auction for rough diamonds is Rs. 20 crores or more.

SHIPMENT

6. The shipment of rough diamonds will be made in the name of MMTC, /New Delhi. On arrival of parcel, Customs clearance will be done by Consignee i.e MMTC. All taxes and statutory dues arising on account of import transaction of rough diamonds will be borne by Associate. Associate will coordinate on behalf of MMTC for clearing of consignment alongwith the nominated Clearing and Handling Agent.

SALE

7. Sale Value will be cost of material plus MMTC Trade margin plus VAT and any other statutory dues.
8. MMTC shall charge a trade margin on rough diamonds imported on behalf of the Associate under the agreement as below:-

Trade Margin
1.0 (One percent) of Sales Value

OTHER CONDITIONS:

9. This agreement shall be governed as per the Indian Laws.
10. The Associate hereby guarantees and irrevocably undertakes to keep MMTC fully harmless and indentified towards lifting the entire quantity committed for purchase against full payment of cost of material and all incidental and statutory charges on arrival of material in India.
11. Any difference on account of exchange variations, freight or cost of material shall be promptly made good by the Associate.
12. The Associate irrevocably undertakes and agrees to indemnify and hold harmless MMTC in full, being unlimited with time against all allegations, claims, actions, suits, demands, damages, losses, settlements, costs and expenses, consequences, liabilities of any kind whatsoever directly/indirectly suffered/sustained by MMTC, due to any breach/default (act or omission) of any of the provisions of this agreement on the part of the Associate. In the event of any claim in respect of any alleged breach being made against MMTC, it shall notify to the associate and the Associate shall at his own expense, either settle any such dispute or conduct any litigation that may arise therefrom.
13. Associate will be allowed 3 chances for bidding successfully. In case of 3 successive failures, the company would be replaced by other registered/empanelled applicants.

14. MMTC reserves the right to review associate's performance in terms of participation in preview/sightings over two- three sightings before deciding on future previews.
15. MMTC Reserves the right to accept or reject any bid without any explanation.
16. If at any time during the continuance of this agreement , MMTC is prevented from performing in whole or in part any obligation under this agreement because of any war, hostility, military operations ,acts of public enemy, civil commotions, sabotage, strikes, quarantine, lock outs, fire ,floods, explosion, acts of god/Government or any other cause covered by the term"Force Majeure", then the date of fulfillment of any obligations/ engagement shall be postponed during the time when such circumstances operate. If operation of such circumstances exceeds four weeks, MMTC shall have the right to refuse further performance of this agreement in which case the Associate shall not have the right to claim any damages whatsoever.
17. MMTC reserves the right to modify/amend the terms and conditions and intimate the same prior to commencement of auction/tender/spot sales or while the auction is in progress.
18. This agreement shall be valid for a period of one year from the date of signing of Agreement.
19. The maximum limit of rough diamonds that can be purchased on behalf of the Associate at any point of time would be US \$ 10 million.

20. FRAUD PREVENTION POLICY

- i. 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 participation in the auction process, during the execution of Contract and in any other transaction with MMTC.
- ii. 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 employee(s) any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind, whatsoever, during the auction/tender/ spot sales process or during the execution of the Contract.
- iii. 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.
- iv. The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) shall not commit or allow any employee of MMTC to commit any offence under the relevant provisions of IPC/Prevention of Corruption Act; further the Bidder(s)/Contractor(s) /Buyer(s)/Vender(s) will not use improperly or allow any employee of MMTC, for purpose of competition or personal gain or pass on to others any information or document provided by MMTC as part of the business relationship, including information contained or transmitted electronically.
- v. The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) shall not instigate third person to commit offences/activities outlined in Fraud Prevention Policy or be an accessory to such offences.

vi. 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.

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

viii. MMTC reserves its right to initiate civil as well as criminal action against the agents/employees of the bidder for fraud or misappropriation, besides claiming damages and indemnification. The management of the Bidder/Contractor would also be made liable for action in case of fraud, under the applicable laws and "MMTC" may forfeit EMD, if "MMTC" finds it necessary to do so.

ix. In case MMTC disqualifies the Bidder/Contractor from the auction process prior to the award or during execution according to Clause 19, MMTC shall be entitled to demand and recover from the Contractor damages of the Contract value of the amount equivalent to EMD.

21. LIQUIDATED DAMAGES

In the event of bidder's failure to take the delivery of the material after being qualified as H1 Bidder, the liquidated damages shall be payable by them @ 5% of the value of unexecuted order subject to a maximum of 10% of the total order value to MMTC.

22. HOLIDAY LISTING POLICY

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

ii. Holiday listing policy is available at MMTC Website www.mmtclimited.com under trader advisory link placed at the bottom of home page of MMTC's website.

23. TERMINATION

This agreement shall be subject to termination upon the occurrence of the following event by giving a 30 days notice period by either of the party:-

i. If either party hereto defaults on any of its material obligations, representations or warranties under this agreement, the non-defaulting party shall without prejudice to any other remedy for breach, by written notice of default, specifying in sufficient details, the nature and extent of such breach to the other party, may terminate this agreement/contract.

ii. Notwithstanding the generality of the foregoing, MMTC shall have the right upon the occurrence of an event of default to terminate this agreement by way of notice to the bidder/contractor specifying the relevant event of default. The date of termination of this agreement shall be the date as designated by MMTC in such notice.

24. ARBITRATION

All disputes or differences whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this agreement or the validity or 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 there of shall be binding on both the parties. The venue of Arbitration shall be New Delhi. The language of arbitration shall be English.

25. JURISDICTION

The parties hereto agree that any matter or issue arising hereunder or any dispute hereunder shall be subject to the exclusive jurisdiction of the courts of Delhi only.

IN WITNESS WHEREOF, the parties have signed this Agreement to be duly executed and delivered by its duly authorised officers as of the date first written above.

For and on behalf of
the Associate

For and on behalf of
MMTC Ltd.

Sign _____

Sign _____

Date: _____

Date _____

Address _____

Address _____

Seal _____

Seal _____

Witness:

Witness:

- 1.
- 2.

- 1.
- 2.

INTEGRITY PACT AGREEMENT

INTEGRITY PACT

Between

MMTC Limited hereinafter, referred to as “MMTC”,

And

..... hereinafter referred to as “The Buyer/Vendor/Bidder”

Preamble

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

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

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

Section 1 – Commitments of MMTC

1. MMTC commits itself to take all necessary measures to prevent corruption and to observe the following principles:
 - a) No employee of MMTC, personally or through family members, will in connection with the auction 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 measured necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender/auction/e-auction/e-sale/sale/purchase process and during the contract execution.
 - a) The 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 auction 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) shall 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) shall not instigate third persons to commit offences outlined above or be necessary to such offences.

Section 3 – Disqualification from auction 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/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 EMD 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 auction process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the auction 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 auction 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)

Place :

Date :

Witness 1 :

Name :

Address :

Witness 2 :

Name :

Address :

Note: The bidder are advised to communicate with the Independent External Monitors (IEMs) only in case of complaints relating to integrity pact.

