



A Govt. of India Enterprise

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NOTICE INVITING GLOBAL E-TENDER

NO.: MMTC/STEEL/PI/EXP/E-TENDER/01/2016-17/07

DATED: 25TH NOVEMBER 2016

MMTC invites Global tender for Export of Non-Alloy Pig Iron of Indian Origin from interested overseas buyers. The last date of submission of tender is by 1430 hrs on 2ND December, 2016.

The complete details of the tender are available at MMTC's website www.mmtclimited.gov.in and Govt. website <http://eprocure.gov.in>

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

GENERAL MANAGER (STEEL)

1.	COMMODITY	NON-ALLOY PIG IRON PRODUCED BY NEELACHAL ISPAT NIGAM LIMITED, DUBURI, ODISHA
2.	QUANTITY	MINIMUM 15,000 MT(UPTO +5% AT SELLER'S OPTION) AND MAXIMUM UPTO 30,000 MT (UPTO +5% AT SELLER'S OPTION)
3.	LOAD PORT	PARADIP PORT, INDIA
4.	SHIPMENT PERIOD	20 TH DECEMBER TO 30 TH DECEMBER 2016
5.	DELIVERY BASIS	FOB ST PARADIP PORT
6.	ORIGIN	INDIAN
7.	DESTINATION	ANY COUNTRY OTHER THAN BANNED COUNTRIES
8.	SPECIFICATIONS	<p><u>MATERIAL: NON-ALLOY PIG IRON</u></p> <p><u>CHEMISTRY:</u></p> <p>C. : 3.6 - 4.3%;</p> <p>Si. : UP TO 1.24 % ;</p> <p>Mn. : < 1% ;</p> <p>S. : 0.05% MAX;</p> <p>P. : 0.20% MAX.</p> <p>WEIGHT : PIGS 15-20 KGS IN WEIGHT</p> <p>CHIPS BELOW 25 MM NOT EXCEEDING 5%. DUST, DIRT AND MOISTURE EXCEEDING 0.5% DEDUCTIBLE FROM DRAFT SURVEY WEIGHT.</p>
9.	PRICE (TO BE QUOTED)	BIDDER(S) MAY QUOTE UNIT PRICE ON FOBST PARADIP PORT BASIS IN THE PRICE BID FORMAT.
10	EMD	<p>ALL BIDDERS (EXCEPT MTPL WHICH IS A 100% SUBSIDIARY OF MMTC) ARE REQUIRED TO SUBMIT <u>EMD @ US\$ 2 PMT</u> BY MEANS OF FINANCIAL BANK GUARANTEE (PROFORMA ENCLOSED) THROUGH A SCHEDULED COMMERCIAL BANK AT NEW DELHI, INDIA. THE BG SHOULD BE VALID FOR MINIMUM SIX MONTHS ON REVOLVING BASIS. THE BG MAY BE SUBMITTED AT LEAST TWO DAYS BEFORE THE LAST DATE OF SUBMISSION OF THE BIDS BY PROSPECTIVE BUYERS. OFFER WITHOUT PROPER B.G. WILL NOT BE CONSIDERED.</p> <p>(THOSE BIDDERS WHO HAD ALREADY SUBMITTED B.G. AS EMD AS ABOVE NEED NOT SUBMIT THE BG AGAIN, BUT THE BG SUBMITTED EARLIER SHOULD BE VALID UPTO 31ST MARCH 2017.)</p>
11	PERFORMANCE BANK GUARANTEE (PBG)	<p>1. ALL BIDDERS (EXCEPT MTPL, SINGAPORE WHICH IS A 100% SUBSIDIARY OF MMTC) ARE REQUIRED TO SUBMIT WITHIN 5 WORKING DAYS FROM THE DATE OF ISSUANCE OF SIGNED SALE CONTRACT BY MMTC, SHALL ESTABLISH PERFORMANCE BANK GUARANTEE @ USD 4 PMT FOR THE CONTRACT QUANTITY OF THE SHIPMENT THROUGH A SCHEDULED COMMERCIAL BANK (OTHER THAN GRAMIN BANK AND CO-OPERATIVE BANK) AT NEW DELHI, INDIA.</p>

		<p>2. THE PBG MUST BE VALID FOR A PERIOD OF SIX MONTHS OR FURTHER EXTENDED PERIOD TILL THE OBLIGATION IN THAT EXPORT CONTRACT IS FULFILLED.</p> <p>3. IN CASE THE BUYER DOES NOT OPEN THE PBG AS PER SCHEDULE, THEN THE BANK GUARANTEE SUBMITTED AS EMD WILL BE FORFEITED.</p>
12.	PAYMENT TERMS	<p>BY IRREVOCABLE L/C PAYABLE ON PRESENTATION OF DOCUMENTS TO THE NEGOTIATING BANK WITH TT REIMBURSEMENT CLAUSE AND RED CLAUSE OPENED BY A FIRST CLASS INTERNATIONAL BANK AS PER THE STANDARD FORMAT OF MMTC (ENCLOSED). LC SHOULD BE OPENED FOR FULL CONTRACT VALUE WITHIN TEN (10) WORKING DAYS FROM THE DATE OF LETTER OF INTENT (LOI) BUT BEFORE NOMINATION OF VESSEL WHICHEVER IS EARLIER, FAILING WHICH EMD WILL BE FORFIETED AND MMTC MAY TAKE ACTION AS DEEMED FIT.</p>
13.	DUE DATES	<p>SUBMISSION OF TECHNICAL&PRICE BIDS : 2ND DECEMBER 2016 by 1430 hrs IST</p> <p>OPENING OF TECHNICAL BID : 2ND DECEMBER 2016 by 1445 hrs IST</p> <p>OPENING OF PRICE BID : 2ND DECEMBER 2016 by 1630 hrs IST</p>
14.	VALIDITY	<p>FIRM QTY. OFFER TO BE KEPT VALID TILLS 1730 HOURS IST OF 9TH DECEMBER 2016 FOR ACCEPTANCE.</p>
15.	CONTRACT	<p>WRITTEN CONTRACT WOULD BE REQUIRED TO BE SIGNED BY THE SUCCESSFUL BIDDER (PARTY) /TENDERER WITHIN FIVE (5) WORKING DAYS OF ISSUE OF LETTER OF INTENT (LOI). THE SAME PARTY SHALL OPEN LC WITHIN THE STIPULATED TIME FRAME AS DETAILED IN CLAUSE No. 12. SHIPPING DOCUMENTS WILL BE MADE ONLY IN THE NAME OF THE PARTY WHO OPENS LC. NO CHANGE IN NAME/CONSTITUTION OF BIDDER WILL BE ALLOWED TILL SUCCESSFUL COMPLETION OF CONTRACT.</p>
16.	GENERAL TERMS & CONDITIONS	<p>(I) 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.</p> <p>(II) MMTC RESERVES THE RIGHT TO OFFER THE BALANCE UNBIDDED QUANTITY TO H-2 BIDDER AT H-1 PRICE RECIVED IN THIS TENDER.</p> <p>(III) THE BUYER SHALL HAVE TO LIFT THE ALLOTTED QUANTITY AS PER SHIPMENT PERIOD UNTIL OTHERWISE EXTENDED BY THE SELLER ON THE REQUEST OF BUYER. IN THE EVENT OF FAILURE OF THE ABOVE ,THE SELLER SHALL:-</p> <p>(a) FORFEIT EMD/PBG SUBMITTED AGAINST THE SAID TENDER AND ALSO RECOVER GROUND RENT FROM 30 DAYS FROM THE DATE OF NOR OF CARGO CALCULATED AT THE RATE OF USD 1.00 PER METRIC TON PER WEEK OR PART THEREOF UPTO 90 DAYS AND 1.5 USD PER METRIC TON PER WEEK OR PART THEREOF AFTER 90 DAYS UPTO 120 DAYS TILL THE TIME OF BERTHING OF VESSEL. IN THE EVENT BUYER FAILS TO LIFT THE CARGO WITHIN A PERIOD OF 120 DAYS, THE MATERIAL WILL BE AUCTIONED / SOLD BY MMTC AT THE RISK AND COST OF THE BUYER SO AS TO RECOVER THE OUTSTANDING AMOUNT / LOSSES DUE TO MMTC.</p> <p>(IV) BIDDERS WHO HAVE MORE THAN TWO SHIPMENTS PENDING FOR EXPORT ARE NOT ELIGIBLE TO PARTICIPATE IN THE TENDER.</p> <p>(V) FOR NEW BUYERS, MMTC SHALL OBTAIN BIDDER PROFILE (NAME ADDRESS CONTACT DETAILS.</p> <p>(VI) UNDER TAKING STATING THAT THE BUSINESS DEALING HAVE NOT BEEN BANNED OR SUSPENDED BY THE MINISTRY OF COMMERCE (MOC) GOVERNMENT OF INDIA OR ANY PSU UNDER MOC.</p>

Bidder shall submit the following supporting documents.

- a. Bidder shall enclose an **Auditor's Certificate** indicating (i) annual turnover (ii) networth as on last annual balance sheet and (iii) past experience. Please enclose annual financial statement also.
- b. Bidder shall enclose a **Credit rating Report** from any one of the following agencies: (D&B, S&P, Moody's, ICRA, CRISIL, CARE). Credit rating report should be issued on or after **31st MARCH 2015**.
- c. Bidders shall enclose a **Bank reference report** issued on or after **31st MARCH 2015**.

"Bidders who have already submitted copies of supporting documents in earlier tender (document not older than one year) namely, auditor's certificate, annual financial statement, networth, credit rating report, past experience and bank reference report need not submit again.

MTPL, Singapore a 100% subsidiary of MMTC will be exempted from submission of the above.

In case bidders are not able to submit the Credential Report along with tender documents, bidder shall submit an undertaking to the effect that the requisite documents will be submitted at the earliest.

SPECIAL TERMS & CONDITIONS IF PRICE BID SUBMITTED IN ELECTRONIC MODE.

- 1 E-Tender is available on MMTC e-procurement website **URL:- <https://mmtc.eproc.in>** for online bidding process. For this, Bidder is required to obtain minimum Class II Digital Signature (meant for e-tendering) from any of Certifying Authority recognized by Controller of Certifying Authority (www.cca.gov.in) and have to register with e-procurement portal **URL:- <https://mmtc.eproc.in>** (a onetime activity) independent of each other as given below.

Procedure for Obtaining Digital Certificate

The bidder should obtain digital certificate to participate in the tender. The procedure for obtaining Digital certificate is given in the web site **URL:- <https://mmtc.eproc.in>** In case of any difficulty either mail or talk to the Technical Support Engineer, whose contact details are given below.

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 of the RAs approved by CCA. Minimum time to procure DSC is 5 working days.

Procedure for Registering in E-Procurement portal

Further, the bidder will have to register with MMTC's E-Procurement portal. For registering, please go to **URL:- <https://mmtc.eproc.in>** and follow the directions. In case of any difficulty either mail or talk to the Technical Support Engineer, whose contact details are given below.

- 2 For any assistance on e-bidding process, please contact Mr. Mr. Rahul Sharma, Technical Support Engineer – email id rahul.sharma@c1india.com, mobile phone +91-9810605992 OR Ms. Neeti Bala Chandraa email id neeti.bala@c1india.com, mobile phone +91-9958000492.

Earnest Money in physical form should reach us on or before closing date and time of tender.

BIDDERS SHALL SUBMIT THEIR OFFERS SEPARATELY IN TWO-BID FORMAT:

PART- A: TECHNICAL BID: (PHYSICAL FORM ONLY)

THE DOCUMENTS TO BE ENCLOSED WITH PHYSICAL BID ARE AS FOLLOWS AND ARE REQUIRED TO BE SUBMITTED PHYSICALLY IN SEALED ENVELOPES TO BE DROPPED IN TENDER BOX, BY DUE DATE & TIME SO AS TO REACH **ADDITIONAL GENERAL MANAGER, STEEL DIVISION, MMTC LIMITED, CORE-1, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI – 110 003.**

- a) PROFILE OF THE COMPANY, VIZ. PUBLIC LTD./ PRIVATE LTD./ PARTNERSHIP / PROPRIETARY CONCERN WITH DETAILS OF CONTACT PERSON, PHONE, FAX, E-MAIL ADDRESS, ETC.
- b) BANK GUARANTEE AS PER FORMAT OR DD PAYABLE TO MMTC LIMITED, NEW DELHI. **BG HAS TO BE COLLECTED BY THE BUYER FROM THE BANK AND SUBMITTED. SWIFT MESSAGES WILL NOT BE ACCEPTED.**
- c) MMTC E-TENDER DULY SIGNED IN ORIGINAL AND STAMPED ON ALL PAGES OF THE NIT CONFIRMING THAT THE BID IS STRICTLY AS PER TERMS OF E-TENDER ENQUIRY AND ACCEPTANCE OF ALL TERMS AND CONDITIONS OF THE E-TENDER.*
- d) AUTHORITY LETTER IN ORIGINAL AS PER ANNEXURE – II (IF APPLICABLE)

*NOTE:- SCANNED COPY WITHOUT SIGNATURE BY AUTHORISED REPRESENTATIVE AND WITHOUT STAMP SHALL NOT BE ACCEPTED.

PART-B: PRICE BID: IN ELECTRONIC OR PHYSICAL MODE.

A) ELECTRONIC MODE

AS PER ATTACHMENT-A, TO BE SUBMITTED ELECTRONICALLY (AS DETAILED ABOVE).

B) PHYSICAL MODE

IN CASE, THE BIDDER FACES DIFFICULTY IN SUBMITTING PRICE BID THROUGH ELECTRONIC MODE. THE BIDDERS ARE PERMITTED TO SUBMIT IN PHYSICAL MODE AS PER ATTACHMENT-A IN ANOTHER SEALED COVER SUPERSCRIBING "PRICE BID" ADDRESSED TO ADDITIONAL GENERAL MANAGER, STEEL DIVISION, MMTC LIMITED, CORE-1, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI – 110 003. BOTH TECHNICAL & PRICE BIDS IN SEPARATE ENVELOPES TO BE PUT IN ANOTHER ENVELOPE SUPERSCRIBED **TENDER NO. MMTC/STEEL/PI/EXP/E-TENDER/01/2016-17/07 DATED 25TH NOVEMBER 2016.** ALL THE PAPERS SHOULD BE PAGE NUMBERED AND PROPERLY STAPLED.

THE TECHNICAL BIDS WILL BE OPENED AS PER DUE DATE. AFTER SCRUTINY OF TECHNICAL BIDS, THE PRICE BIDS OF ONLY THOSE BIDDERS WHO'S TECHNICAL BIDS ARE ACCEPTABLE WILL BE OPENED AND CONSIDERED FURTHER.

INCOMPLETE OFFER OR OFFERS RECEIVED AFTER THE CLOSING TIME AND DATE SHALL NOT BE ACCEPTED. PRICE BID OF ONLY THOSE BIDDERS, WHO QUALIFY IN TECHNICAL BID, SHALL BE CONSIDERED FOR EVALUATION. PRICE BIDS OF SUCCESSFUL BIDDER (TECHNICAL) WILL BE OPENED AS PER DUE DATE. ANY BIDDER WILLING TO PARTICIPATE IN THE TENDER OPENING PROCESS, MAY ATTEND DIRECTLY OR DEPUTE THEIR REPRESENTATIVE THROUGH PROPER AUTHORISATION ON THEIR LETTERHEAD WITH SIGNATURES IN ORIGINAL CLEARLY STATING THE NAME OF FIRM, PERSON, DESIGNATION AND HIS SIGNATURES (AS PER ANNEXURE - II).

EMD OF THE UNSUCCESSFUL BIDDER WILL BE RETURNED BACK AND FOR THE SUCCESSFUL BIDDERS IT WILL BE RETAINED AND RETURNED AFTER SUCCESSFUL COMPLETION OF THE CONTRACT.

GENERAL MANAGER (STEEL)

ANNEXURE – I

TERMS AND CONDITIONS FOR AGREEMENT FOR SALE BY MMTC FOR EXPORT **OF PIG IRON ON FOB ST BASIS**

- 1.0 MMTC Ltd, a Company incorporated in India under the Companies Act 1956 having its registered Office at Scope Complex, Core 1, 7-Institutional Area, New Delhi herein after referred to as "SELLER" (which term or expression unless excluded by or repugnant to the context shall include its successor and permitted assignee) is the SELLER.
- 1.1 The SELLER is an independent legal entity with power and authority to enter into contracts solely on its own behalf under applicable Laws of India and general principles of contract Laws. Government of India is not a party to any agreement as per these terms and conditions and is not and shall not be liable for any acts, omissions, commissions breaches or other wrongs arising out of any agreement as per these terms and conditions and the BUYER shall waive, release and forego any and all actions for claims including loss claims, impleads claims or counter claims against Government of India arising out of this contract and shall not sue the Government of India as to any manner, cause of action or thing whatsoever arising of or under this agreement.
- 2.0 The Person/Company/Firm identified as BUYER in the agreement including his/its successor/ permitted assignee shall be herein after referred to as "BUYER".
- 2.1 The obligations in the agreement are between BUYER and SELLER and unless otherwise agreed any BUYER's representative in India is not liable or obliged by/to SELLER under any agreement as per these terms and conditions except that any communication to/ from such representative shall be deemed to be to/ from BUYER.
- 3.0 PRICE BASIS:**
- 3.1 Unless otherwise agreed, price of the material shall be free on board (stowed), Paradip Port, India.
- 3.2 SELLER shall under no circumstances be liable for any costs/ charges/ liabilities/ insurance/ freight/ taxes or duties/ levies/ fees whatsoever nature, including by reason of importation of the material in the country of import, arising subsequent to the delivery of the materials as per the agreement on the basis of FOBST.
- 3.3 Marine Insurance to be covered by the BUYER.
- 4.0 MATERIAL & QUANTITY:**
- 4.1 Subject to these terms and conditions (and expressly agreed deviations/ deletions/ additions if any), the SELLER is obliged to sell material of technical specifications as agreed and the BUYER is obliged to buy the same.
- 4.2 The BUYER shall nominate vessel for shipping quantity as per LOI wherein a minimum of **15,000** MT and a maximum of **30,000** MT has to be compulsorily shipped and upto 5% quantity over and above this

quantity. If offered by the seller can be adjusted against tolerance for balancing of the ship .Weight (quantity) shall be established by draft survey at loading port by an independent inspection agency, and the quantity and quality established at load port shall be final. Weight of deleterious impurities such as nonferrous dirt, dust, moisture over 0.5% (half percent), shall be deductible from the final weight. Subsequent to the establishment of L/C and nomination of vessel by buyer & acceptance of vessel by seller, BUYERS have freedom to nominate their own agency at BUYER's cost to co-jointly carry out quality and quantity survey with the independent inspection agency appointed by the SELLER, and the inspection is to be carried out in accordance with international standards applicable for pig iron for quality inspection and draft survey.

- 4.3 The cost of inspection by the independent inspection agency appointed by the SELLER, shall be borne by the SELLER. The inspection certificate issued by them shall certify, inter-alia, that the materials were inspected at the loading port prior to loading and that the marking were as per requirements of the Agreement between the SELLER and the BUYER.

5.0 DELIVERY/ SHIPMENT:

- 5.1 The SELLER shall deliver the Materials free in the holds of the vessel(s) nominated by BUYER and accepted by the SELLER as per these terms and conditions in one or more safe berths reachable on arrival always afloat at loading port which shall be Paradip, India. Unless financial arrangement is made by the BUYER as per clause 6 below or otherwise as agreed by SELLER, the SELLER is not obliged to confirm delivery.
- 5.2 **The BUYER shall nominate a vessel not more than 20 years old** with lay date/ cancellation date within 15 days of SELLER's notice of readiness of materials for shipment or within the lay days in case given by the SELLER or acceptable to the SELLER whichever is earlier. The BUYER shall take into account limitations of the port such as, maximum LOA of 225 m, maximum beam length of 34 M and maximum laden draught of vessels as 12.5 m. However, vessel acceptance shall be given only after acceptance of vessel by Port Authorities.
- 5.2.1 In case there is a delay by the SELLER to confirm notice of readiness of materials and the BUYER had made financial arrangements as agreed, the BUYER has the option to cancel the contract or take the delivery of the material at the contract price & terms within a period of 90 days beyond the originally agreed delivery period.
- 5.2.2 While nominating the vessel for shipment, the present status of the vessel should be informed to the seller to expedite the pre-shipment documents.
- 5.3 While nominating a vessel the BUYER shall communicate following particulars for the nomination:
- (a) Name of the Vessel
 - (b) Year of built & Flag
 - (c) Classification
 - (d) LOA/Beam/Draft at max DWT.

- (e) Loadable tonnage/ nominal tonnage for Delivery
 - (f) No of Decks: (single Decker/TWEEN Decker if TWEEN, the third deck, if any)
 - (g) No of Holds/Hatches
 - (h) Hatch Openings: Weather deck/ Twin deck
 - (i) Type of hatch covers: Weather deck/ Twin Deck
 - (j) Cargo gear capacity: Cranes - single swinging Derricks-Configuration Hatch wise - Derricks Working in union purchase-not acceptable
 - (k) ETA/ lay date/cancellation date at load port
- 5.3.1 The SELLER is entitled to following additional information if required:
- (l) Original name of vessel if changed at present
 - (m) Whether disponently owned
 - (n) Owners P & I Club
 - (o) Disponent Owners P & I Club
 - (p) Last special survey
 - (q) Last dry-docking
 - (r) Position of engines
- 5.4 The vessel nominated by the BUYER shall be geared and equipped with cranes/ derricks competent of lifting minimum 20 MT tonnage at a time from the wharf and placing the materials in the places of the hatches including wing spaces and having minimum four available hatches. The SELLER shall guarantee a loading rate of 4000 MT PWWD SATAFTSHEXEIU subject to these terms and conditions on the basis of five or more available workable hatches or hooks, whichever is less. The SELLER is not obliged to accept vessels with gear capacities, less than three hooks. If due to any reason, a vessel is accepted with lower gear capacity or lesser number of hatches/hooks, the load rate shall be reduced prorata.
The rate of demurrage/despatch shall be as per described below:
- | | |
|-----------------------------|-------------------|
| Pig Iron 9999 or below (MT) | US\$ 3000 PDPR/HD |
| Pig Iron 10000- 19999 | US\$ 4000 PDPR/HD |
| Pig Iron 20000 & above | US\$ 5000 PDPR/HD |
- 5.5 The SELLER shall communicate acceptance/non-acceptance of the vessel within next working day and with reasons in case of non-acceptance. However, the SELLER is not obliged to consider any nomination of the vessel unless the BUYER makes financial arrangement as agreed.
- 5.6 Upon arrival of the vessel within the limits of the loading port and after
- (A) Ensuring that the hatches/holds of the vessel have been thoroughly cleaned,
 - (B) Obtaining free pratique and
 - (C) 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 port office of the SELLER at the loading port, during normal office hours which are 9.30 AM to 4.30 PM from Monday to Friday and

from 9.30 to 1200 Hours on Saturday. The master's N/R shall not be served on Saturday afternoon/Sundays/Port holidays/ Charter Party holidays.

- 5.7 Upon arrival of the vessel within the limits of the loading port or at any time later till completion of loading, if the SELLER or the load port authorities consider that the cranes/ gears of the vessel are not capable of lifting the materials of the weights and dimensions as agreed, from the wharf and placing the material inside the hatches as required for loading, the SELLER has a right to reject the vessel outright without any liability including dead freight and all other consequences/losses arising thereof. In case it is considered that the gears are not capable of maintaining the loading rate guaranteed, the SELLER has a right to assessment by an independent marine surveyor to determine such load rate and the same shall be binding on the BUYER. In case the surveyors find the gears not capable of loading from wharf to any part of the hatches, nomination/ acceptance stands cancelled with no risks/ costs to the SELLER and the charges of the independent marine surveyor shall be borne by BUYER.
- 5.8 The BUYER shall ensure that the charter party governing the shipment shall, inter-alia, include following provisions:
- 5.8.1 Vessel shall be consigned to buyer's agent at load port, owners paying customary agency fee.
- 5.8.2 The ship owners shall bear all ports dues/charges/levies except port loading charges, tonnage dues, light dues and other taxes, assessments and charges that are customarily payable by shippers.
- 5.8.3 Ten days prior to ETA of vessel at load port, the master of the vessel shall give telex/cable/fax intimation to the SELLER.
- 5.8.4 Thereafter at the interval of 7 days/72 hrs/24 hrs before the ETA of the vessel, master of the vessel shall send telex/cable/radio messages regarding the ETA of the vessel to the SELLER and as well to the designated Officer of the SELLER at the Port.
- 5.8.5 Each vessel shall hold a valid gear certificate in conformity with the International Dock Safety Convention, covering the duration of each voyage and confirming that all the gears have been duly tested. The Master of the vessel shall make the gear certificate available to the representative of the SELLER for verification before/on berthing of the vessel at the loading port, in any case prior to commencement of loading. Similarly, the hatch wise loading plan for the Materials shall be furnished by the Master of the vessel before/on its berthing.
- 5.8.6 The Master of the vessel shall allow on board the vessel the representative of the independent inspection agency appointed by the SELLER and provide such information/ assistance as may be required by such agency in connection with the performance of their assigned duties.
- 5.8.7 The Master of the vessel shall provide free use of light on board the vessel as may be required for working the vessel at the loading port at all times and in each case free of expense to the SELLER. The master of the vessel shall make available all the hatches for loading of the materials throughout the period the vessel is worked for loading of the materials except in such hatches where the materials have been completely loaded.

5.8.8 **Lay time and excepted period:**

- 5.8.8.1 Lay time shall commence at 1300 Hrs if Master's N/R is served in the forenoon and at 0800 Hrs of the next working day if the Master's N/R is served in the afternoon.
- 5.8.8.2 Time between noon on Saturday and 0800 Hrs on Monday and/or between noon on the last working day preceding a legal holiday and/or Port holidays/Charter party holidays and 0800 Hrs in the next working day shall not count as lay time even if used, unless the vessel is on demurrage. In case vessel reports to the load port beyond the agreed lay days as per contract/NOR, in such cases Lay Time to be calculated from the time of berthing of vessel.
- 5.8.8.3 If nomination of vessel is made where lay can is less than 7 days from the date of nomination of vessel, this period shall not be counted for lay time calculation.
- 5.8.8.4 After berthing, if the port authorities or representative of the SELLER find that the vessel is not ready in all respects to load, the lay time will not commence until the vessel is in fact ready in all respects to load. The time used by the vessel in proceeding from the anchorage to the berth shall not count as lay time.
- 5.8.8.5 In the event of breakdown of vessel gear or other equipment of the vessel by reason such as insufficient power etc., not attributable to shipper, the period of such break down shall not count as lay time.
- 5.8.8.6 Time lost due to any of the following reasons shall not count as lay time unless the vessel is on demurrage:**
- Non weather working days declared by the port authorities even if the vessel is worked.
 - War, Rebellion, Tumult, Political disturbances, Insurrection.
 - Lockout, Strikes, Riots, Civil commotions.
 - Epidemics, Quarantine, Land-slips, Floods, Frost or Snow, Bore tides, Bad Weather.
 - Stoppage of work, whether partial or general by workmen/long shore men/ tug-boatmen or other hands essential to the working of the vessel or loading of the materials into the vessel.
 - Accidents at Wharf.
 - Intervention of security, customs and/or other constituted authorities.
 - Stoppage, whether partial or total, due to any other causes beyond the control of the SELLER.
- 5.8.8.7 The opening and the closing of the hatches of the vessel shall always be done by the vessel's crew and the cost involved therein shall be to the account of the vessel.
- 5.8.8.8 The time lost due to shifting of the vessel within the port limits shall not count as lay time. However, if the shifting is required by the SELLER, the shifting charges shall be to the account of the SELLER and time lost in shifting shall count as lay time.
- 5.8.8.9 The overtime of the crew and officers shall be to the account of the vessel.
- 5.8.9 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.

5.8.10 Statement of Facts:

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.

5.8.11 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.

5.8.12 The ship owners shall instruct their Agents at the loading port to issue the Bill(s) of Lading with marking as per LC (see 6.2.1(a)) to the representative of the SELLER, immediately but within one day from the date of completion of loading of the materials into the vessel.

6. TERMS OF PAYMENT:

6.1 Unless agreed otherwise, financial arrangements shall be made within Ten (10) working Days (Excluding Saturdays, Sundays) from the date of sale confirmation by the SELLER or before nomination of the vessel whichever is earlier, in USD by the BUYER in favour of SELLER by means of a confirmed irrevocable without recourse to the drawer's Letter of Credit (LC) payable on presentation of documents to the negotiating bank with **TT reimbursement clause and red clause**, governed by Uniform Customs and Practices for Documentary Credits (as applicable on date of opening of LC conforming to SELLER'S standard format), representing the value of the contract quantity of the materials with positive tolerance, on the basis of FOBST, established through any of the top 50 banks (latest ranking by bankersalmanac.com link <http://www.bankersalmanac.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 bank in favour of MMTC Ltd, Bhubaneswar , India. The LC shall be advised through State Bank Of India, Commercial Branch, IDCOL House, Ashok Nagar, Bhubaneswar 751 009 (INDIA) SWIFT SBININ BB 119, TELEX No. 06756209 SBI BIN, Fax No. 91-0674-2530803 as per the negotiating documents negotiable at the counters of any branch or any bank of India.

OR

6.2 Unless agreed otherwise, financial arrangements shall be made within Ten (10) working Days (Excluding Saturdays, Sundays) from the date of sale confirmation by the SELLER or before nomination of the vessel whichever is earlier, in USD by the BUYER in favour of SELLER by means of a confirmed irrevocable without recourse to the drawer's Letter of Credit (LC) payable on presentation of documents to the negotiating bank with **TT reimbursement (within 48 hours) clause**, governed by Uniform Customs and Practices for Documentary Credits (as applicable on date of opening of LC conforming to SELLER'S standard format), representing the value of the contract quantity of the materials with positive tolerance, on the basis of FOBST, established through **1st class International bank** in favour of MMTC Ltd, Bhubaneswar, India. The LC shall be advised through State Bank Of India, Commercial Branch, IDCOL House, Ashok Nagar, Bhubaneswar 751 009 (INDIA) SWIFT SBININ BB 119, TELEX No. 06756209 SBI BIN, Fax No. 91-0674-2530803 as per the negotiating documents negotiable at the State Bank Of India, Commercial Branch, Ashok Nagar, Bhubaneswar. **LC confirmation charges of State Bank of India, Bhubaneswar will be to the account of applicant.**

“In case the bidder fails to nominate suitable vessel within the mutually agreed laycan, in addition to forfeiture of earnest money deposit (EMD) and performance bank guarantee (PBG), bidder will be blacklisted for a period of two years.”

6.3 Opening of valid LC within stipulated time is an essential condition. Sellers are at liberty to terminate the contract and claim damages/ losses in case of such failure of buyer for breach of above essential conditions.

6.4 PAYMENT AGAINST LC

6.4.1 The LC shall be available for payment of 100% of value of invoice (less if any advance is already paid by the BUYER), covering the material shipped against presentation of the SELLER drafts drawn at sight accompanied by following Bank documents (and +also against Clause No.6.8 herein below).

a) 3/3 original on board Ocean or Charter Party Bill (s) of Lading.

b) SELLER's Packing list

c) SELLER's signed Commercial Invoices

d) Works Test Certificate(s) issued by the SELLER

e) Pre-shipment Inspection certificate - issued by the independent inspection agency appointed by the SELLER.

Note: One non-negotiable copy each of the aforesaid documents shall be dispatched by Courier by the SELLER to the BUYER within 7 working days from the date of BL.

6.4.2 The LC shall also be available for payment against 100% of Invoice value as per clause No.6.8 herein below.

6.4.3 In case the LC opening bank does not pay the due amount as per the LC within specified time in the LC to the beneficiary's bank in India, the BUYER shall be liable to the SELLER for payment of interest charged by, the negotiating bank for the delay in such remittances.

6.5 The LC shall specifically provide that Bill(s) of Lading and Pre-shipment Inspection Certificate with remarks such as:

Atmospheric/surface/superficial rust/edge rust, unprotected cargo, stored in open area prior to loading, rust stained/partly rust stained shall be acceptable for negotiation.

6.6 The LC should provide for shipment of materials with quantity tolerance as specified in clause 4.2 herein above or as otherwise agreed. It should be valid from date of opening up to date of shipment as per the agreement and up to actual date of completion of shipment in the vessel nominated by BUYER and 21 days beyond that for negotiations of documents.

6.7 All Bank and other charges incurred outside the territory of India shall be borne and paid for by the BUYER.

6.8 The financial arrangement, required to be made by the BUYER, shall be deemed to be made only on receipt of L/C at the bank as specified in clause 6.1 above unless agreed otherwise. In case the BUYER

does not make the financial arrangement within the agreed time, the SELLER may forfeit the EMD if any with the SELLER.

- 6.9 If any advance is made by the BUYER against any contract, in part or full, if the BUYER is not able to indicate size wise breakup of the material at least 4 weeks prior to the expiry of contractual delivery period.
- i) In case of fall in prices, the SELLER is entitled to recover difference in contract price and the weighted average price realized by SELLER for the deliveries made in the last month within the contract delivery period and return the balance and EMD to the BUYER without interest.
 - ii) The SELLER will return the advance without interest in case the weighted average prices realized for the last month of delivery as per contract is more than the contract price.

6.10 In the event of

- (A) The failure of the BUYER to nominate suitable vessel within lay days given in Seller's notice of readiness of cargo or otherwise acceptable to Seller, or within 15 days from the N/R of cargo whichever is earlier, **or**
- (B) The vessel nominated by the BUYER and accepted by the SELLER failing to arrive at the designated load port within the agreed lay-days for reasons other than Force Majeure as defined under clause No.10 herein below, **or**
- (C) The vessel (nominated by the BUYER and accepted by the SELLER) being found unsuitable after its arrival at designated load port as certified by independent marine surveyors.

The SELLER shall be entitled to negotiate his commercial Invoice against the LC opened by the BUYER and realize 100% of the value of the Materials ready for shipment on the basis of certificate issued by the independent inspection agency appointed by the SELLER, certifying the quantity of the materials ready for shipment and also certifying that the materials are in good condition. The materials will thereafter be held in custody by the SELLER at the risk and responsibility of the BUYER at the storage yard of the SELLER at the load port.

While the SELLER shall hold the materials free of ground rent for a period of 15 days from the date of payment, or for 30 days from the date of NOR, whichever is earlier, for a storage extending beyond 15 days from the date of payment or 30 days from the date of NOR, whichever is earlier, BUYER shall pay to the SELLER ground rent calculated at the rate of USD 1.00 per metric ton per week or part thereof up to 90 days and 1.5 USD Per metric ton per week or part thereof after 90 days up to 120 days till the time of berthing of vessel. In the event buyer fails to lift the cargo within a period of 120 days, the material will be auctioned / sold by MMTC at the risk and cost of the buyer so as to recover the outstanding amount / losses due to MMTC. The BUYER shall however nominate another suitable vessel within reasonable time for taking delivery of the cargo for which payment has been realized by the SELLER as aforesaid and subject to such vessel arriving at load port within the agreed lay-days the SELLER shall at his cost deliver FOB (Stowed) the materials for which payment has been realized by the SELLER as aforesaid. The LC

established by the BUYER in favour of the SELLER shall make specific and unconditional provision to the above effect.

THE BUYER SHALL SETTLE THE DELAY CHARGES WITHIN 15 DAYS FROM THE DATE OF LODGING CLAIM BY THE SELLER; ELSE THE AMOUNT SHALL BE RECOVERED FROM THE EMD/SECURITY DEPOSIT OR ANY OTHER AVAILABLE BALANCE LYING IN THE ACCOUNTS OF THE BUYER.

7. SETTLEMENT OF DEMURRAGE/ DESPATCH MONEY IN RESPECT OF EACH SHIPMENT:

Based on the Statement of Facts, the computation of lay time allowed and lay time used shall be based on provisions contained in clause 5.8 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 sixty days from the date of receipt of the claim of the SELLER with lay time statements. In case of demurrage, the SELLER against the dispatch money pending from the BUYER if any shall adjust the agreed amount. If not, the SELLER shall endeavour to remit the agreed amount of demurrage within sixty days from the date of receipt of claim from BUYER with supporting documents.

8. RISK AND TITLE:

Except in the case of negotiation under LC as per clause No.6.8 herein above, with respect to each shipment, the risk shall pass from the SELLER to the BUYER as soon as the materials cross the ship's rails at the port of loading and the title to the materials shall pass from the SELLER to the BUYER only after the SELLER has negotiated the documents and has received payment of the full invoice value of the materials shipped from the negotiating bank.

9. RIGHT OF TRANSFER:

Neither the BUYER nor the SELLER shall be entitled to assign or transfer contract resulting from this Agreement except to its successor or to the transferee of all or substantially all of its assets, and in the case of any such assignment or transfer, the contract shall be binding upon and shall insure to the benefit of such successor or transferee.

10. FORCE MAJEURE:

If the SELLER and/or the BUYER are prevented from discharging its or their obligation under this agreement by reasons of arrests or restraints under rules of Government, War, Blockade, Revolution, Insurrection, immobilization, Strikes, Riots, Civil Commotions, Lockouts, Accidents, Acts of God, plague, or other epidemics, destruction of the materials by fire or flood or other natural calamity or on account of any other cause interfering with the production and/or delivery of the materials as herein above contemplated, the time for delivery shall be postponed by the time or time during which production and/or delivery is prevented by any such causes as herein above mentioned, provided that in the event of such delay exceeding ninety days, the party other than the party which invokes the force majeure may at their option,

cancel this agreement by Notice in-writing to the other party in respect of the undelivered quantity of the materials without, however, any right against or being responsible to the other party for such cancellation. The party invoking force-majeure shall within 15 days of the occurrence of force-majeure causes, put the other party on notice supported by a certificate from the Chamber of Commerce or concerned governmental authority and shall likewise intimate the cessation of such causes. If the force-majeure condition continues beyond a period of six months the SELLER or the BUYER may at his option cancel this agreement by notice in writing to other party in respect of the undelivered quantity of the materials without, however, any right against or being responsible to the other party for such cancellation.

11. LEGAL INTERPRETATION:

The contract of sale and purchase and these terms and conditions shall be governed interpreted and construed in accordance with the Laws of India for the time being in force. For all commercial terms and abbreviations used hereunder, which have not been otherwise defined, the rules of INCOTERMS latest revision, shall be applied.

12. SETTLEMENT OF DISPUTES:

Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this contract or the breach thereof shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the Award made in pursuance thereof shall be binding on the parties. The venue of Arbitration proceedings shall be New Delhi.

13. JURISDICTION OF COURTS:

All disputes shall be subject to the jurisdiction of the competent courts of New Delhi, India.

14. IMPORT/EXPORT LICENSE:

It shall be the responsibility of the SELLER to arrange export license, if any, required and it shall be the responsibility of the BUYER to arrange for the import license, if required, in the country into which the material are intended to be imported.

15. 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 (full text of which is available on MMTC's website at [http://mmtclimited.gov.in\(http://mmtclimited.gov.in/\)](http://mmtclimited.gov.in(http://mmtclimited.gov.in/))) during their participation in the tender process, during the execution of contract and in any other transaction with MMTC.

(a) The Bidder(s)/Contractor(s)/Buyer(s)/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.

16. MODIFICATIONS/WAIVERS:

No change in respect of these terms and conditions are valid unless both the parties agree the same to in writing. All previous negotiations/ understandings between parties are cancelled while entering into an agreement as per these terms and conditions. Failure to enforce any conditions hereunder contained shall neither be deemed as waiver of the conditions itself nor authorize any subsequent breach thereof.

FORMAT FOR AUTHORISATION LETTER TO BE SUBMITTED BY THE PRINCIPALS ON LETTER HEAD (IN ORIGINAL)

Ref: MMTC/
To,

DATE:

Dy. General Manager (Steel)
MMTC Limited,
New Delhi
Dear Sir,

Sub: Authorization to Agent for submission / participation in E-Tender –Reg.

Ref: MMTC Notice Inviting E-Tender No: _____ Dated _____.

This is with reference to your Notice Inviting E-Tender (NIT) bearing No. _____ Dated _____ regarding authorization.

In this connection, we M/s _____ (name & Address) as Principal, hereby appoint / authorize M/s _____ (name & Address), as an Agency on behalf of us to quote/submit/participate in the above referred e-tender bearing No. _____ Dated _____.

Further, our agent will enter/ sign the contract with MMTC on acceptance of our e-tender.

We hereby undertake that we as a Principal hold full responsibility for all acts/ deeds of M/s _____ in connection with this e-tender.

Thanking you.

Yours faithfully,

(Signature & Seal of the Authorized signatory of the Principal)

Signature of Authorised person

(M/s. _____)

FORMAT FOR LETTER OF CREDIT

FROM: ----- (NAME & ADDRESS OF THE LC OPENING BANK)

TO: SBI COMMERCIAL BRANCH
IDCOL HOUSE, ASHOK NAGAR,
BHUBANESWAR-751009, INDIA
SWIFT: SBININBB119
TELEX: 6756209SBUBIN
FAX: 00-91-674-2530803

A/C NO: MPMC LIMITED, BHUBANESWAR 01602050148 OR-----

LC APPLICANT: (NAME & ADDRESS OF THE LC OPENER)

BENEFICIARY: MPMC LIMITED, ALOK BHARATI COMPLEX, 7TH FLOOR, SHAHID NAGAR, BHUBANESWAR-751007

WE HAVE OPENED OUR IRREVOCABLE WITHOUT RECOURSE TO DRAWER LETTER OF CREDIT NO..... DATED.....FOR THE SUM NOT EXCEEDING US\$..... (US DOLLAR.....) PAYABLE AT SIGHT AT THE COUNTERS OF THE NEGOTIATING BANK IN BHUBANESWAR AGAINST PRESENTATION OF BENEFICIARY'S DRAFT DRAWN ON OURSELVES FOR 100 PERCENT VALUE OF INVOICE ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

1. COMMERCIAL INVOICE - ONE ORIGINAL PLUS TWO SIGNED COPIES COVERING MATERIALS SHIPPED.
2. FULL SET 3/3 ORIGINAL ON BOARD OCEAN OR CHARTER PARTY BILLS OF LADING ISSUED TO ORDER OF THE BENEFICIARY AND BLANK ENDORSED MARKED "FREIGHT TO PAY" OR REIGHT PAYABLE AS PER CHARTER PARTY" EVIDENCING SHIPMENT FROM PARADIP PORT, INDIA TO.....NOTIFYING.....
3. WORKS TEST CERTIFICATE ISSUED BY THE BENEFICIARY - IN DUPLICATE.
4. INSPECTION CERTIFICATE ISSUED BY INDEPENDENT INSPECTION AGENCY APPOINTED BY THE SELLER, CERTIFYING QUANTITY AND QUALITY OF THE MATERIALS SHIPPED - IN DUPLICATE.
5. PACKING LIST - IN DUPLICATE.
6. CERTIFICATE OF ORIGIN ISSUED BY, THE _____CHAMBER OF COMMERCE & INDUSTRY, _____ OR, THE BENEFICIARY, - IN DUPLICATE.
7. COPY OF CABLE OR TELEX OR FAX ISSUED BY BENEFICIARY TO THE LC APPLICANT (TELEX NO.) AND/OR (FAX NO.) WITHIN 3 WORKING DAYS AFTER THE ON-BOARD BILL OF LADING DATE ADVISING THE NAME OF THE VESSEL, B/LADING NUMBER, DATE AND QUANTITY LOADED.

DESCRIPTION OF THE MATERIALS, QUALITY, PACKING & MARKING

QUANTITY:

UNIT PRICE: USD_____ PMT FOB ST PARADIP PORT

SHIPMENT FROM: PARADIP PORT INDIA

SHIPMENT TO: _____

LATEST SHIPMENT DATE:

L/C EXPIRY DATE:

PLACE OF LC EXPIRY: INDIA

PARTIAL SHIPMENTS: PERMIT

CONFIRMATION : MAY ADD.

SPECIAL CONDITIONS:

1. OCEAN FREIGHT SHALL BE SETTLED BY THE LC APPLICANT OUTSIDE TRANSHIPMENT: PROHIBITED OF THIS LETTER OF CREDIT.
2. MARINE INSURANCE, IF REQUIRED, TO BE COVERED BY THE LC APPLICANT.
3. ALL BANK CHARGES INCLUDING OPENING OF LETTER OF CREDIT INCURRED OUTSIDE INDIA SHALL BE BORNE AND PAID FOR BY THE LC APPLICANT. ALL BANK CHARGES INCURRED IN INDIA SHALL BE BORNE AND PAID FOR BY THE BENEFICIARY.
4. IN THE EVENT OF (A) THE FAILURE OF THE LC APPLICANT TO NOMINATE SUITABLE VESSEL FOR SHIPMENT WITHIN AGREED LAYDAYS WITHIN 15 DAYS OF SELLERS NOTICE OF READINESS (HEREINAFTER REFERRED TO AS N/R) OF CARGO OR OTHERWISE AGREED BY THE SELLER OR WITHIN FIFTEEN DAYS OF N/R OF CARGO WHICHEVER IS EARLIER OR (B) THE VESSEL NOMINATED BY THE LC APPLICANT AND ACCEPTED BY THE BENEFICIARY FAILING TO ARRIVE AT PARADIP PORT WITHIN AGREED LAYDAYS OR (C) THE VESSEL (NOMINATED BY THE LC APPLICANT AND ACCEPTED BY THE BENEFICIARY) BEING FOUND UNSUITABLE AFTER IT'S ARRIVAL AT PARADIP PORT AS CERTIFIED BY INDEPENDENT MARINE SURVEYORS, THIS CREDIT IS PAYABLE AT SIGHT AT THE COUNTERS OF NEGOTIATING BANK AT BBSR AGAINST PRESENTATION OF BENEFICIARY'S DRAFT DRAWN ON OURSELVES FOR 100 PERCENT VALUE OF INVOICE ACCOMPANIED BY THE FOLLOWING DOCUMENTS:-
 - (A) COMMERCIAL INVOICE - ONE ORIGINAL PLUS TWO SIGNED COPIES.
 - (B) COPY OF BENEFICIARY'S NOTICE OF READINESS OF CARGO - IN DUPLICATE.
 - (C) WORKS TEST CERTIFICATE ISSUED BY THE BENEFICIARY - IN DUPLICATE.
 - (D) CERTIFICATE ISSUED BY INDEPENDENT INSPECTION AGENCY APPOINTED BY THE SELLER CERTIFYING: MATERIALS WERE INSPECTED AT THE STORAGE YARD OF THE BENEFICIARY AT PARADIP PORT, AND, MATERIALS ARE IN GOOD CONDITION AND THE QUANTITY AS PER THE COMMERCIAL INVOICE ARE READY FOR SHIPMENT,
 - (E) BENEFICIARY'S DECLARATION THAT SUITABLE VESSEL HAS NOT BEEN NOMINATED BY THE LC APPLICANT WITHIN AGREED LAYDAYS OR THAT THE VESSEL NOMINATED BY THE LC APPLICANT AND ACCEPTED BY THE BENEFICIARY FAILED TO ARRIVE AT PARADIP PORT WITHIN THE AGREED LAYDAYS FOR REASONS OTHER THAN FORCE MAJEURE OR THAT THE VESSEL (NOMINATED BY THE LC APPLICANT AND ACCEPTED BY THE BENEFICIARY) BEING FOUND UNSUITABLE AFTER ITS ARRIVAL AS CERTIFIED BY THE INDEPENDENT MARINE SURVEYORS (COPY OF CERTIFICATE OF MARINE SURVEYOR TO BE PRESENTED IN SUCH AN EVENT) AS THE CASE MAY BE.
 - (F) BENEFICIARY'S DECLARATION THAT (1) THE MATERIALS AS MENTIONED IN THE COMMERCIAL INVOICE WILL BE HELD IN CUSTODY BY THE BENEFICIARY AT THE RISK AND RESPONSIBILITY OF THE LC APPLICANT AT THE STORAGE YARD OF THE BENEFICIARY AT PARADIP PORT, (2) UPON NOMINATION OF SUITABLE VESSEL WITHIN REASONABLE TIME BY THE LC APPLICANT FOR TAKING DELIVERY OF THE MATERIALS FOR WHICH PAYMENT HAS BEEN REALISED BY THE BENEFICIARY AS AFORESAID AND SUBJECT TO SUCH VESSEL ARRIVING AT PARADIP PORT WITHIN THE AGREED LAYDAYS, THE BENEFICIARY SHALL AT HIS COST DELIVER FOB (STOWED) THE MATERIALS FOR WHICH PAYMENT HAS BEEN REALISED BY THE BENEFICIARY AS AFORESAID.

5. REMARKS SUCH AS "MATERIAL WITH SUPERFICIAL/ SURFACE/ ATMOSPHERIC/EDGE RUST" AND/OR "UNPROTECTED CARGO" AND/OR "STORED IN OPEN AREA PRIOR TO LOADING" AND/OR "RUST STAINED" AND/OR "PARTLY RUST STAINED" APPEARING IN THE INSPECTION CERTIFICATE, AND/OR BILL OF LADING ARE ALSO ACCEPTABLE.
6. THIS LC CAN BE CONFIRMED BY ANY BANK IN INDIA, IF REQUESTED BY THE BENEFICIARY, AND SUCH CONFIRMATION CHARGES ARE TO THE ACCOUNT OF BENEFICIARY.
7. TOLERANCE OF FIVE (+/-5 %) PERCENT ON CREDIT AMOUNT AND QUANTITY IS ACCEPTABLE.
8. THIS CREDIT IS AVAILABLE WITH ANY BANK IN INDIA FOR NEGOTIATION AND PAYMENT.
9. THIRD PARTY DOCUMENTS ARE ACCEPTABLE.
10. DOCUMENTS TO BE PRESENTED FOR NEGOTIATION WITHIN 21 DAYS AFTER THE DATE OF ISSUANCE OF SHIPPING DOCUMENTS BUT WITHIN THE VALIDITY OF THIS CREDIT.
11. WE HEREBY AGREE WITH BENEFICIARY AND THE NEGOTIATING BANK THAT ALL DRAFTS DRAWN BY THE BENEFICIARY UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONOURED BY US AS PER REIMBURSEMENT INSTRUCTIONS APPEARING HEREIN BELOW:

REIMBURSEMENT INSTRUCTIONS:

UPON PRESENTATION OF DOCUMENTS COMPLYING IN ALL RESPECTS TO LETTER OF CREDIT TERMS (THIS WILL INCLUDE NEGOTIATION OF DOCUMENTS UNDER THE PROVISIONS OF CONDITION NO.4 OF SPECIAL CONDITIONS OF THIS CREDIT IF SUCH AN EVENTUALITY HAS ARISEN) THE NEGOTIATING BANK IS AUTHORISED TO CLAIM ON US BY TESTED SWIFT CERTIFYING THAT ALL TERMS AND CONDITIONS HAVE BEEN COMPLIED WITH AND THAT THE RELATIVE DOCUMENTS HAVE BEEN FORWARDED TO US BY COURIER AND/OR REGISTERED AIRMAIL, WE UNDER TAKE TO REMIT WITHIN TWO WORKING DAYS AFTER RECEIPT BY US OF YOUR TESTED TELEX/SWIFT CLAIM IN US DOLLARS IN ACCORDANCE WITH THE NEGOTIATING BANK'S INSTRUCTIONS. INCASE OF ANY DELAY IN REMITTENCE, INTEREST CHARGED BY NEGOTIATING BANK SHALL BE PAID BY US. THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO.600. THIS IS OPERATIVE INSTRUMENT AND NO MAIL CONFIRMATION WILL FOLLOW.

PROFORMA FOR FINANCIAL BANK GUARANTEE FOR EMD

(TO BE STAMPED IN ACCORDANCE WITH THE STAMP ACT)

Bank Guarantee No. _____

Date _____

REF No.

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

LETTER OF GUARANTEE

1. WHEREAS, MMTC LIMITED, Core 1 SCOPE Complex, Lodhi Road, NEW DELHI-110 003, India, (hereinafter referred to as MMTC) has invited bids vide Global e-Tender (hereinafter referred to as Invitation to Bids) for supply of _____ MT +/-5% Pig Iron.
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\$ _____ in favour of MMTC, New Delhi in the form of a Bank Guarantee of US\$ _____ with a **MINIMUM validity of 180** (One Hundred eighty) days from the date of submission of bids.
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\$ _____ with a **MINIMUM** validity period up to 180 (One Hundred eighty) days and that the Bidder M/s. _____:-
 - a) shall keep his offer firm and valid for acceptance by MMTC as per tender against which offer is made.
 - b) shall in the event of the offer being accepted by MMTC, tenderer will establish a Performance Bank Guarantee in favour of MMTC in the form indicated in the said Invitation to e-Tender @ USD 2 PMT for the contract quantity through a scheduled Commercial Bank (other than Gramin Bank and Co-Operative Bank) at New Delhi, India.
 - c) shall in the event of the offer being accepted by MMTC, tenderer will establish a Letter of Credit in favour of MMTC in the form indicated in the said Invitation to e-Tender covering full value of the quantity of Pig Iron at the price and on the terms accepted by MMTC, within 10 (Ten) International banking days from the date of the Acceptance to Tender.
 - d) shall further arrange to lift the confirmed quantities as per the Letter of Credit by the last date of shipment indicated in the Letter of Credit.
 - e) shall remit the dispatch amounts, storage/ground rent charges payable, if any, within the time specified in the terms and conditions of contract.

4. We _____ (Name and Address of the Bank) (hereinafter referred to as the Bank which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee that in the event of the said Bidder failing to abide by any of the conditions referred to in any of the preceding paragraphs, this Bank shall pay to MMTC 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 within two working days of receipt of invocation of this bank guarantee.
7. NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to US\$ _____ only.
8. Your demand in writing may be presented to the Bank by courier / 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\$ _____ only by MMTC.
11. This Bank further undertakes that this Guarantee shall remain irrevocably valid and in force initially up to a period of 180 (One Hundred eighty)days and shall expire on _____ (Date) and that the same shall be extended further according to the provisions contained hereinabove, and shall not be amended or withdrawn without the previous consent of MMTC in writing.
12. This Guarantee is governed by the Laws of India and comes into force forthwith.
13. We have the power to issue this guarantee in your favour under the Charter of our Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted by the Bank.

Signature : _____

Name and code : _____

Designation: _____
Seal of the Bank : _____

PERFORMANCE BANK GUARANTEE PROFORMA

Bank Guarantee No. _____

dated _____

(On a stamp paper of applicable amount to be executed by a Delhi / New Delhi Branch of a Scheduled Bank other than Gramin Bank or Cooperative Bank)

To

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

Dear Sirs,

- 1) WHEREAS, MMTC Limited, having its registered office at Core-1, SCOPE Complex, 7, Institutional Area, Lodhi 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 _____.
- 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 immediately on 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 there under unless a claim under the Guarantee is made on our Bank in writing on or before _____ (expiry date).
- 7) Your Letter of Demand in writing 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.
- 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.
- 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) The bank Guarantee is subject to Uniform Rules for Demand Guarantees 758 (URDG758).

SIGNED AND DELIVERED THIS _____ DAY OF _____ 2016

Yours faithfully

For and on behalf of Bank

(Address)

(Banker's Seal)

ANNEXURE - VI

TENDER NO.: MMTC/STEEL/PI/EXP/E-TENDER/01/2016-17/07

DATED: 25TH NOVEMBER 2016

PRICE BID

1.	<u>QUANTITY OFFERED</u> Non-Alloy Pig Iron of Indian Origin	MINIMUM 15,000 MT (UPTO +5% AT SELLER'S OPTION) AND MAXIMUM UPTO 30,000 MT (UPTO +5% AT SELLER'S OPTION)
2.	Name of the Bidder	
3.	Address of the Bidder	
4.	<u>QUOTED QUANTITY</u> MINIMUM 15,000 MT AND UPTO 30,000 MT MAXIMUM	
5.	Price in USD PMT FOB ST PARADIP PORT	

Validity of price up to 1730 HRS (IST) of 9TH DECEMBER 2016 or As per Corrigendum/ Addendum issued, if any.

Signature of the bidder

Name

Designation

DATE: _____

Dated: _____ 2016

To,

Additional General Manager (Steel)
MMTC Limited,
Corporate Office,
Core-1, SCOPE Complex,
7, Institutional Area,
Lodi Road,
New Delhi-110 003 (INDIA)

Sub: Undertaking on Credential Report / Auditor's Certificate/ Bank reference report

Dear Sir,

We hereby agree and undertake that we shall submit a **Credential Report / Auditor's Certificate/ Bank reference report** at the earliest.

In case, we fail to submit these documents, MMTC Limited shall be at liberty to invoke / encash EMD and also to take appropriate action as deemed fit.

Thanking you,

Yours faithfully,

(Authorized Signatory)

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 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 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 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/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.

(FOR & ON BEHALF OF MMTC)

(OFFICE SEAL)

(FOR & ON BEHALF OF BUYER/
VENDOR/BIDDER)

(OFFICE SEAL)

PLACE : _____

DATE : _____

WITNESS 1 : _____

WITNESS 2 : _____

NAME : _____

NAME _____

ADDRESS : _____

ADDRESS _____