

**NIT No.MMTC/BBN/DOLOMITE /NINL-RM/1/2015-16 dated 03/06/2015**

Last Date of Submission of Bids : 18/06/2015 at 13 : 30 Hours

**OPEN TENDER NOTICE FOR PURCHASE/SUPPLY OF DOLOMITE B.F GRADE(10-50)MM SIZE**

MMTC Limited, A Government of India Enterprise, having its Sub-Regional Office at Kalinga Road, Barbil – 758 035, P.O. Barbil, Dist. Keonjhar (Odisha) invites sealed tender on behalf of **Neelachal Ispat Nigam Limited (NINL)** in two bid system from **Mine owners/Authorised supplier/Agent of mine owners /Importers** only. *Bids shall be acceptable subject to their confirmation that they would produce all statutory documents required to establish genuineness of the Dolomite being supplied to NINL, as and when demanded by NINL/Mining Department under Govt. of Odisha;* as per following specifications, terms & conditions :-

Bidders are required to submit their sealed tender on or before 18/06/2015 by 13.30 Hrs in the Tender Drop Box kept in Minerals Section, MMTC Limited, Barbil. The offer (s) is / are required to be submitted in two separate sealed envelopes i.e. one for Technical bid containing documents mentioned as under Eligibility Criteria and second for Price Bid containing only quoted price per MT in INR for material tendered. The entire information including technical bid and price bid should be type written. The NIT can be downloaded from the websites and the bidders are required to submit the bids as per tender so downloaded without any change/ modification/ alteration/ deletion etc. In case of any changes in the NIT come to notice subsequently by MMTC, the same will be rejected summarily. Any deviation from the above procedure in submission of bids, will result in rejection of the bids straightway. The technical bid will be opened on 18/06/2015 at 15:30 Hours and price bids of technically qualified bidders will be opened subsequently. Bidders may depute their authorized representatives during opening of technical and price bids. In case bidders fail to depute their representative during such opening of bids, no subsequent complaint or representation would be entertained relating to the tender process. This NIT is available in MMTC & Govt. Web sites i.e. ( [www.mmtclimited.gov.in](http://www.mmtclimited.gov.in) & <http://eprocure.gov.in> ).

**ELIGIBILITY CRITERIA :**

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

**(a) MINES OWNERS :** (i) Copy of Valid Mining lease deed with validity period (ii)Valid IBM Registration Certificate ; (iii) Copy of valid PAN card ; (iv) Copy of valid VAT Registration Certificate clearly indicating the commodity being dealt ; (v) Copy of valid CST Registration Certificate ,(vi) Copy of valid Service tax registration certificate(optional), (vii) Tender documents forming part of the contract stamped & signed by the bidder on each page and furnished along with the Technical Bid as token of acceptance of the terms and conditions.

**(b)Authorised suppliers/ Agent of mine owners :** (i) Documents of Exclusive tie up agreement or authorisation certificate from mines owners (document subject to verification) for handling/mining and marketing of Dolomite; (ii) Valid IBM Registration Certificate of subject mines; (iii) Copy of valid PAN card ; (iv) Copy of valid VAT Registration Certificate clearly indicating the commodity being dealt ; (v) Copy of valid CST Registration Certificate ,(vi) Copy of valid Service tax registration certificate(optional); (vii) Tender documents forming part of the contract stamped & signed by the bidder on each page and furnished along with the Technical Bid as token of acceptance of the terms and conditions.

**(c)IMPORTERS:**

**i)** Trade Licence under concerned Mining Circle,(ii) IBM Certificate, (iii) Country of Origin (iv) Import/Export Code with validity period, (v) Bill of Lading, vi) Bill of Entry indicating importer's( Bidder's) Name duly passed by Customs Authority after payment

of applicable duties/ taxes etc only after 01/04/2015.(vii) Pan Card, (viii)Load Port Analysis Report, (ix) VAT Registration Certificate clearly indicating commodity being dealt, (x) CST Registration Certificate for Dolomite, (xi) Office address with Fax/e-mail ID/ Telephone Number, (xii) Service Tax Certificate (optional), (xiii) Valid Storage Licence under concerned Mining Circle or Compounding fees paid Receipt to Govt of Odisha for storage, (xiv)The bidder(Importer) have to quote for the total tendered quantity (xv) The Importer bidders will declare that they are readily having a stock of minimum 20% of tendered quantity on the date of bidding, excluding quantities for which indent already registered (xvi)Copy of DTR minutes of Port indicating cargo availability at port plot in the name of importer bidder,(xvii) All the pages of the tender notice i.e. NIT, must be stamped and signed by the bidder and submitted with technical bid as a token of acceptance of the terms and conditions.

EMD of Rs. 1.00 Lakh in the form of Demand Draft / Banker's Cheque favouring MMTC Limited, payable at Barbil. The unsuccessful bidder shall be refunded their EMD after 5 working days from the date of *purchase* order issued to successful bidder.

In case wrong information with regard to the eligibility criteria or otherwise is furnished by any bidding party, they shall be black-listed and debarred to enter into any commercial transaction of any nature with MMTC, in future.

### **SAILENT FEATURES OF NIT :**

**Commodity : (a) DOLOMITE B.F GRADE(10-50MM) (WMT basis by Rail)**

**Caluse : 1 SPECIFICATIONS :**

<b>Technical Specifications BF Grade Dolomite (Indigenous)</b>			
<u>Tonnage</u>	<u>116000 MT</u>		
Sl No.	<u>Specifications</u>		
	<u>Technical Particulars</u>	<u>Desired Limited</u>	<u>Absolute Limit</u>
<u>1</u>	<u>Chemical composition(%)</u>		
	CaO	29 Min	29 Min
	MgO	19 Min	18 Min
	SiO <sub>2</sub>	4 Max	4 Max
	Al <sub>2</sub> O <sub>3</sub>	1 Max	1 Max
	Total Alkalies	0.4 Max	0.4 Max
<u>2</u>	<u>Physical Parameters</u>		
	Size 10 to 50 mm	-10 mm +50 mm	5% Max Acceptable upto 10% with penalty. 5% Max Acceptable upto 10% with penalty.

**CLAUSE 2 : Quantity & Delivery period : UP TO 1,16,000 MTs. PERIOD *June*,2015 to March,2016**

**Allocation of monthly quantity / rakes shall be as per buyer's option.** Quantities can be increased or decreased on the basis of NINL's actual requirement during the above period. Further, MMTC /NINL reserves right to extend/reduce the delivery period as per requirement of NINL. Allocation of rakes/Quantity shall be on monthly basis. In case of failure by the supplier to supply allocated quantity/rakes during a particular month, the balance quantity/rake shall not be carried forward to next month and shall be treated as lapsed quantity. However, in case of non- supply of rakes by railway in spite of registration of indents by the supplier the balance quantity/rakes shall be carried forward to next month. **MMTC / NINL** reserves the right to

cancel the allocation of a supplier and allot the same to other supplier in case of non-supply of Dolomite by the supplier for NINL plant and forfeit security deposit.

**CLAUSE 3 : Loading point :** Nearest Railway siding of the supplier .The bidder has to mention the Name(s) of railway siding from where intend to load Dolomite. The bidder also has to mention the total numbers of Dolomite rakes they propose to supply against this NIT on monthly basis.

**CLAUSE 4 :Destination :** Railway Siding of Neelachal Ispat Nigam Limited, (NINS) Duburi Jajpur,Odisha.

**CLAUSE 5 : Terms of Delivery :**

Indent to be registered by the seller at the respective Railway sidings. Supplier has to ensure loading of material in the wagons fit for loading of Dolomite and arrange packing of doors properly to prevent loss of cargo en-route destination. The supplier must clean each and every wagon before loading of the material to avoid any contamination of material.

**CLAUSE 6: PACKING:**

Material should be supplied loose in wagons, if not otherwise advised, after closing the gaps in the wagons to prevent spillage etc.

**CLAUSE 7 : Price:**

Price shall be in Indian Rupees per WMT F.O.R loading stations basis. The price shall be inclusive of Royalty but exclusive of Cess, Entry Tax, VAT /Sales tax/CST, any other Government Levies as applicable which will be as per the prevailing rates. Any variation in the rate of taxes and levies or imposition of any fresh statutory levy during the contractual delivery period shall be to the account of buyer, subject to submission of documentary evidence to that effect by the supplier.

**CLAUSE 8 : Penalty & Acceptable Limits : Dolomite Lumps.**

Item	Specification	Acceptable Limit	Penalty
MgO	19% Min	Less than 19% & up to 18%	@2% of base price for every 0.1% decrease or part thereof.
SiO2	4% Max	More than 4% & up to 5%.	@2% of base price for every 0.1% increase or part thereof, rejection above 5%
Al2O3	1% Max	( acceptable up to 2% with penalty)	1% Max , 2% of base price for every 0.1% increase or part thereof.

**Physical Specification and Tolerance Limits:**

Physical Properties			
Size	10-50MM		
-10MM	5% Max	Acceptable up to 10% with penalty.	@ 2% of base price for every 1% or part thereof increase.
+50 MM	5% Max	Acceptable up to 10% with penalty.	@ 2% of base price for every 1% or part thereof increase.

**CLAUSE 9 :** In case material is rejected, a token payment of Re. 1/- PWMT shall be applicable. However, other charges like actual Royalty(subject to submission of proof), a fixed amount of Rs. 100/- towards transportation charges from Mines to railway siding and loading into wagons, labour welfare cess, VAT/CST shall be applicable as per prevailing rate.

**CLAUSE 10 : Weight Determination :**

**i)** In case of **Interstate** transactions, the weight of Dolomite supplied on F.O.R *loading station* basis shall either be determined at loading station Railway Weighbridge or at any en-route Railway In-motion weighbridge and the Nett weight mentioned in the R/R shall be final for payment.

**ii)** In case of **Intra-state** transactions, the weight of the Dolomite supplied on F.O.R basis shall be determined on the basis of weight recorded at Government approved road weighbridge at mines/en-route and quantity unloaded at the Railway Siding on the basis of Transit Permits issued by Mining Department which shall be binding for payment purpose as per rules of Director of Mines, Government of Odisha. Transit permit quantity (i.e shifting quantity) is to be certified by the respective Representative of DDM office of respective Mining Circle.

**iii)** In case wagons are not weighed either at loading station Railway Weighbridge or at any en-route Railway In-motion Weighbridge, the weight determined on weight-volume-ratio by the public analyst at the loading station shall be final for all purpose. In case assessed quantity is more than the chargeable weight, payment will be restricted on the chargeable quantity mentioned in the Railway Receipt .

**iv)** Payment of Railway dues such as, Punitive Charges and Dead freight, etc. shall be as per Railway Receipt. The Punitive Charges and Dead Freight if any payable to the Railways shall be shared equally (50:50) between the buyer and the seller subject to maximum of Rs.100/- per MT being the share of buyer(NINL) **on chargeable weight of the rake**. Demurrage charges due to delay in loading, penalty due to excess loading per wagon and subsequent adjustment charges shall be to seller's account. Further, other Railways liabilities, if any, related to the despatch of material shall be to the seller's account.

**CLAUSE 11 : Sampling and Analysis of cargo :**

At the loading point, an approved / recognized public analyst shall be appointed as independent analyst by the buyer who shall draw samples and analyze for the quantity loaded by the seller. The analyst shall determine the specifications (Chemical and Physical) of the Dolomite for a full rake in three lots by giving analysis of elements, components as per required specifications. First 2 (two) lots shall be of 20 wagons each and the 3<sup>rd</sup> lot shall be for the balance wagons in the rake. The analyst shall provide an analysis certificate showing detailed analysis reports after completion of the lot indicating the weighted average of three lots.

Drawing of samples at the time of loading of rakes for carrying out chemical and physical analysis shall be done by the public analyst appointed by the buyer. In case Buyer's representative does not turn up at the time of drawing of samples, the sample so drawn by the public analyst in the presence of seller's representative would be final and binding for all purpose.

Final sample packets prepared by the analyst by crushing, etc. will be divided into 7 (seven) parts and sealed separately in the presence of the representatives mentioned above. Out of above, two sample packets will be handed over to the representative of NINL, one to seller's representative and one will be retained by the public analyst to conduct the analysis. In case recourse has to be taken for umpire analysis, the fifth set of sample packets (i.e. the umpire's sample) preserved under the safe custody of the analyst concerned, will be used and the balance two set of sample packets will be handed over to the representative of MMTC/NINL.

Cost of such sampling / analysis by the public analyst will be to the seller's account. In the event of recourse, cost of such analysis will be borne as stated in the umpire analysis clause appearing hereunder

Apart from above as and when required, joint sampling/analysis by a third party inspection agency other than loading point assayer in presence of suppliers representative nominated by MMTC/NINL would be undertaken at unloading point i.e. NINL plant and the

results of the sampling analysis shall be binding for all purposes. Cost towards such sampling analysis shall be passed on to NINL's account.

### **Umpire Analysis :**

Whenever buyer or seller demands for umpire analysis the duplicate sample packet with MMTC/NINL will be sent for cross-check purpose by MMTC's other empanelled analyst. If the result revealed is at a variance of 0.5% or more, such cases only shall be considered for umpire analysis. The sample intended for umpire analysis will be destroyed after three months from the date of declaration of the analysis results, unless instructions to the contrary are issued. The cost of the umpire analysis will be to the account of the party, whose analysis is more remote from the umpire analysis. If the result of the analysis are equi-distant from the original analysis the charges will be divided equally between the buyer and the seller.

### **CLAUSE 12 : Payment :**

In case of supply of Dolomite from outside state parties, NINL shall directly place purchase order to outside Odisha supplier(s) based on the lowest/competitive rates as arrived at by NINL and after supply of goods, the supplier(s) shall issue commercial invoice directly to NINL(TIN No. 21731400956) under intimation to MMTC along with copies of R/R and Analysis Report. NINL shall settle the bills directly or shall authorise MMTC,Barbil to settle the bills on behalf of NINL.

*In case of sales within the state of Odisha, the seller shall raise commercial invoice to MMTC Limited, (TIN No. 21471106607) Barbil, Dist Keonjhar, Odisha with following documents:- i) copy of original R/R ii) analysis certificate by third party analyst , iii) copy of "L" and "I" forms along with TP statement and copies of TPs.*

- (a) Buyer will release provisional payment to the extent of 80% value of the cargo through E-mode on receipt of analysis report( MgO & Silica content reported by third party analyst appointed by MMTC) on the basis of weight determined & MgO reported by analyst as per CLAUSE 10 & 11 of this NIT against Invoice supported by Railway Receipt or Transit Permit issued by the Dept. of Steel & Mines, Govt of Odisha. In case of sales within the state of Odisha, sale transit permit quantity should be certified by Deptt. of Steel & Mines, Govt. of Odisha. Seller will submit a detailed statement of Transit Permits showing quantity shifted from mine-head to the Railway siding, duly sealed and signed by Govt. Weighbridge Officials or concerned receiving officials of Railway at Railway siding along with invoice. Besides, supplier shall comply with all statutory norms relevant for obtaining mining permission, rake loading, etc.
- (b) *Final Payment* : Buyer will release the final payment of 20% after adjustment of provisional payment to supplier on E-Mode on the basis of weight and complete analysis report determined as per CLAUSE 9. For the purpose of E-payment the supplier will be required to furnish its Bank account details in writing to MMTC/NINL in the prescribed format. **The bank charges for RTGS** payment will be borne by the seller holding accounts in banks other than the State Bank of India

### **CLAUSE 13 : CST :**

CST at the applicable rate under CST Act 1956 and other Govt. levies, if applicable, shall be paid extra by the Buyer subject to production of documentary evidence.

### **CLAUSE 14 : Inspection :**

Inspection of cargo at Buyer's option will be done at mine heads by Buyer's representative. The cost of such inspection will be borne by the seller. This will, however, not absolve the Seller of its responsibility for supply of the material as per contractual specifications.

**CLAUSE 15 : CONSIGNEE :**

The seller shall consign the material in favour of M/s Neelachal Ispat Nigam Limited, Kalinga Nagar Industrial Complex, Duburi 755026 Dist. Jajpur , Odisha.

**CLAUSE 16 : Default in Delivery :**

In the event of any default in the delivery schedule or non-performance of the contract by the Seller, the buyer reserve the right to forfeit the security deposit.

**CLAUSE 17 : Security :**

In case of **Interstate transaction**, Successful bidder shall submit security deposit of Rs. 10,00,000 /-(Rupees Ten Lakhs) only in the form of pay order or demand draft issued by any nationalised Bank in favour of Neelachal Ispat Nigam Limited payable at Jajpur Road, Odisha and

In case of **Intrastate transaction** the bidder has to submit Security deposit of Rs. 10,00,000.00(Rupees Ten Lakhs) only in form of pay order or demand draft issued by any nationalised Bank in favour of MMTC Limited payable at Barbil, Odisha.

On receipt of the above security deposit, contract shall be executed and EMD shall be returned to the successful bidders. Unsuccessful bidders shall also get back their EMD(s) after five working days from the date of work order issued to the successful bidder.

**CLAUSE 18 : Arbitration :**

i) All Disputes or differences, whatsoever, arising between the parties out of or in relation to the construction, meaning and operation or effect of this Contract or breach thereof shall be settled amicably. If however, the parties are not able to resolve them amicably, the same shall be settled by arbitration in accordance with the provisions of Arbitration & Conciliation Act 1996 and the award made in pursuance thereof shall be binding on the parties. The Arbitrator/Arbitrators will give reasoned award.

ii) Work under the Contract shall be continued by the Contractor during the arbitration proceedings unless otherwise directed in writing by the Purchaser or unless the matter is such that the works cannot be continued until the decision of the arbitrators or of the Umpire, as the case may be, is obtained and save as those which are otherwise expressly provided in the Contract, no payment due or payable by the Purchaser shall be withheld on arbitration proceeding unless it is the subject matter or one of the subject matter thereof. iii) The venue of Arbitration shall be Bhubaneswar. Only the Courts at Bhubaneswar will have the jurisdiction over any matter/disputes etc. pertaining to and arising out of the Contract.

**CLAUSE 19 : Force Majeure :**

In case at any time during the existence of the contract, either party is unable to perform in whole or in part any obligation under the contract because of war, hostility, military operation of any character, civil commotions, sabotage, quarantine restrictions, acts of Government, fire, floods, explosions, epidemics, strikes, embargoes, blockages, mobilizations, earthquake, cyclone, **Plant shut down** restriction or any other unforeseen circumstances beyond the reasonable control of the parties concerned then the date of fulfilment of any obligations shall be postponed during the time when such circumstances are operative.

Any waiver / extension of time in respect of the delivery of any instalment or part of the goods shall not be deemed to be waiver/extension of time in respect of the remaining deliveries. If operation of such circumstances exceeds by one month, the affected party will have the right to refuse further performance of the contract in which case neither party shall have the right to claim eventual damages.

The party which is unable to fulfil its obligations under the present contract must within 10 days of occurrence of any of the cause mentioned in the contract shall inform the other party of the existence of the circumstances preventing the performance of the contract. Certificate issued by a Chamber of Commerce of Industry or any other competent authority connected with the cause shall be sufficient proof of the existence of the above circumstances and their duration. Non-availability of material will not be an excuse to the Seller for not performing their obligations under the contract.

The delivery period in respect of undelivered quantities may be extended during the contractual period at Buyer's (MMTC/NINL's) option subject to acceptance of the price by the Seller available through any tender by MMTC during the extended delivery period or the contractual price, whichever is lower.

If no mutual agreement either for extension of time for supply of Dolomite or price is arrived at, the contract may be terminated at the option of the MMTC /NINL without any liability.

**CLAUSE 20 : Authorisation of Agent/Representative :** For the bid submitted by agent / representatives, the name, address & bank attested specimen signature of their principle is to be furnished along with a letter of authority issued by the principal authorizing the agent/representatives to participate on their behalf.

**CLAUSE 21 : Contract :**

Tender documents forming part of the contract shall be signed by the bidder on each page and furnished along the Technical Bid as token of acceptance of the terms and conditions.

**CLAUSE 22 : Submission of Tender Bid :** The bid (s) is/are to be submitted in the following manner :

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

(b) Price Bid: Price per WMT basis.

Both the envelopes super-scribing Part-I and Part-II separately for Tender NIT No. MMTC/BBN/DOLOMITE /NINL-RM/1/2015-16 dated 03/06/2015 for supply of Dolomite are to be put in one sealed envelope.

**CLAUSE 23 : General :**

- 23.1 For evaluation of the bid, the landed cost at NINL plant, Duburi, Jajpur shall be considered.
- 23.2 MMTC reserve the right to cancel or reject any or all bids without showing any reason whatsoever and the decision of MMTC in this respect shall be final and binding and shall not be liable to be questioned in any court or before any authority.
- 23.3 If required, MMTC / NINL may split the quantity amongst L-1 and L-2 bidders, provided L-2 bidder(s) match the landed Cost as per price bid of L-1 bidder. In case, there are more than one L-1 bidder, 100% quantity shall be allocated equally(as far as possible) amongst all L-1 bidders. In case, there are more than one L-2 bidder and they agree to match the landed cost, 70%(approx) quantity shall be allocated to the L-1 bidder and balance quantity shall be equally (as far as possible) allocated to L-2 bidder.
- 23.4 No objection certificate( Service tax certificate) is to be submitted by the supplier to Railways in favour of NINL against Railway Receipt for Dolomite rakes booked from respective loading stations to NINS siding certifying that the supplier will not claim service taxes towards railway freight paid by the buyer(NINL Plant).

23.4 In case of Interstate transaction MMTC will act as an agent for procurement of DOLOMITE for NINL.

**Clause No.24: Termination of Contract**

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

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

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

**Clause No. 25: Integrity Pact:**

The successful Bidder will be required to sign an Integrity Pact with **MMTC Limited** which will be a part of the tender.

MMTC limited  
BARBIL

Accepted.



NIT No. MMTC/BBN/DOLOMITE /NINL-RM/1/2015-16 dated 03/06/2015

Last Date of Submission of Bids : 18/06/2015 at 13 : 30 Hours

**OPEN TENDER NOTICE FOR PURCHASE OF DOLOMITE BF GRADE(10-50)MM SIZE**

**PART-II**

**PRICE BID**

**Price:** : Price shall be in Indian Rupees ..... per WMT F.O.R loading stations basis. The price shall be inclusive of royalty but exclusive of cess, entry tax , sales tax (VAT/CST), any other Govt. levies which will be as per the prevailing rates. Any variation in the rate of royalty, cess, ET and sales tax or imposition of any fresh statutory levy during the contractual delivery period shall be to the account of buyer, subject to submission of documentary evidence to that effect by the supplier.

The price offered shall remain valid till 31.03.2016 for acceptance by the MMTC .

Place:

Signature of the Bidder with Official Seal

Date:

**INTEGRITY PACT**

Between

**MMTC Limited hereinafter, referred to as “MMTC”**

And

M/s. .... hereinafter referred to as “The

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.

**Section1 – 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 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 tender/auction/e-auction/e-sale/sale/purchase commits himself to take all measured necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender/auction/e-auction/e-sale/sale/purchase process and during the contract execution.
  - a) The 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 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 Law of India., further the Buyer(s)/Vendor(s)/Bidder(s) will not use improperly, for purposes of completion or personal gain, or pass on to others, any information or document provided by MMTC as part of the business relationship regarding proposals, plans business details including information contained or transmitted electronically.
  - d) The 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 has bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.
2. The 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 cause by him and has installed a suitable corruption prevention system. MMTC may at its sole discretion revoke the exclusion prematurely.
- c) A transgression is considered to have occurred if in light of available evidence no reasonable doubt is possible.

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

1. If MMTC has disqualified the 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 the 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 the 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 representative of the parties and performs his functions neutrally and independently. He reports to the CMD, MMTC.
3. The IEM has the right to access without restriction to all trade/project related documentation of MMTC. The 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 obtain to participate in such meetings.
5. As soon as the IEM notices, or believes to notice, a violation of this agreement, he will so inform the Management of MMTC and request the Management to discontinue or take corrective action, or to take other relevant action. The IEM can in this regard submit NON-BINDING RECOMMENDATIONS. Beyond this, the IEM has not right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
6. The IEM will submit a written report to the CMD, MMTC within 4 to 6 weeks from the date of reference or intimation to his by MMTC and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the IEM has reported to the CMD, MMTC, substantiate suspicion of an offence under relevant Anti Corruption Laws of India and the CMD, MMTC, has not, within the reasonable time taken visible action to proceed against such offence or reported it to its Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner, Govt. of India.
8. The word “IEM” would include both singular and plural.

### **Section 9 – Pact Duration**

1. This Pact begins when both parties have legally signed it. It expires for the Vendor 12 months after the last payment under the contract, and for all other Bidders, 6 months after the Contract has been awarded.
2. If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by CMD, MMTC.

**Section 10 - Other Provisions**

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of MMTC, i.e. New Delhi.
2. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
3. If the Vendor is partnership or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

.....  
(For & on behalf of MMTC)  
(Official Seal)

.....  
(For & on behalf of Buyer/Vendor/bidder)  
(Official Seal)

Place:.....

Date :.....

Witness 1.....

Name :

Address:

Witness 2.....

Name :

Address: